

tice as a record for three years. (Authorized by and implementing K.S.A. 48-1607; effective Dec. 30, 2005.)

28-35-505. Quality assurance requirements. Each program for transport container inspection and maintenance that is limited to radiographic exposure devices, source changers, or any package transporting these devices or changers and that meets the requirements of K.A.R. 28-35-282a or equivalent NRC or agreement state requirements shall be deemed to meet the requirement specified in K.A.R. 28-35-500(b). (Authorized by and implementing K.S.A. 48-1607; effective Dec. 30, 2005.)

**Article 36.—FOOD SERVICE
ESTABLISHMENTS, FOOD VENDING
MACHINE COMPANIES AND LODGING
ESTABLISHMENTS**

MOBILE UNITS

28-36-1. (Authorized by K.S.A. 1978 Supp. 36-503; effective, E-77-45, Sept. 30, 1976; effective Feb. 15, 1977; amended, E-79-16, July 1, 1978; amended May 1, 1979; revoked Feb. 18, 2005.)

28-36-2 to 28-36-9. Reserved.

**FOOD VENDING MACHINES AND FOOD
VENDING MACHINE COMPANIES**

28-36-10 to 28-36-18. (Authorized by K.S.A. 1976 Supp. 36-507; effective, E-77-46, Sept. 30, 1976; effective Feb. 15, 1977; revoked Aug. 13, 1999.)

28-36-19. Reserved.

FOOD SERVICE ESTABLISHMENTS

28-36-20. (Authorized by K.S.A. 1978 Supp. 36-507; effective, E-79-29, Oct. 24, 1978; effective May 1, 1979; revoked Aug. 13, 1999.)

28-36-21. (Authorized by K.S.A. 36-507; implementing K.S.A. 36-508; effective, E-79-29, Oct. 24, 1978; effective May 1, 1979; amended Aug. 23, 1993; revoked Aug. 13, 1999.)

28-36-22 to 28-36-24. (Authorized by K.S.A. 1978 Supp. 36-507; effective, E-79-29, Oct. 24, 1978; effective May 1, 1979; revoked Aug. 13, 1999.)

28-36-25. (Authorized by K.S.A. 36-507; implementing K.S.A. 36-508, K.S.A. 1982 Supp.

36-503; effective, E-79-29, Oct. 24, 1978; effective May 1, 1979; amended, T-83-47, Dec. 8, 1982; modified, L. 1983 ch. 350, May 1, 1983; revoked Aug. 13, 1999.)

28-36-26 to 28-36-28. (Authorized by K.S.A. 1978 Supp. 36-507; effective, E-79-29, Oct. 24, 1978; effective May 1, 1979; revoked Aug. 13, 1999.)

28-36-29. (Authorized by K.S.A. 36-507; implementing K.S.A. 36-508, K.S.A. 1982 Supp. 36-515a; effective, E-79-29, Oct. 24, 1978; effective May 1, 1979; amended, T-83-47, Dec. 8, 1982; amended May 1, 1983; revoked Aug. 13, 1999.)

APPLICATION AND LICENSE FEES

28-36-30. Fees. (a) (1) Except as specified in paragraph (2) of this subsection, the food service establishment annual license fee shall be \$200.

(2) The annual license fee shall be \$130 for the following types of food service establishments:

(A) Those that serve the elderly at senior satellite sites with no on-site food preparation; and

(B) those that serve children at school satellite sites with no on-site food preparation.

(b) The food service establishment license application fee shall be \$200. (Authorized by and implementing K.S.A. 2002 Supp. 36-503; effective, E-79-16, July 1, 1978; effective May 1, 1979; amended, E-82-21, Nov. 16, 1981; amended May 1, 1982; amended Dec. 30, 1991; amended Sept. 27, 1993; amended Nov. 20, 1998; amended, T-28-7-2-01, July 2, 2001; amended Nov. 9, 2001; amended Oct. 24, 2003.)

28-36-31. Lodging establishment application fees. The application fee for all lodging establishments doing business in Kansas shall be based on the number of rooms as follows:

1 room to 9 rooms	= \$30
10 rooms to 29 rooms	= \$50
30 rooms or more	= \$100

(Authorized by K.S.A. 1978 Supp. 36-502; effective, E-79-16, July 1, 1978; effective May 1, 1979.)

28-36-32. (Authorized by K.S.A. 1978 Supp. 36-504; effective, E-79-16, July 1, 1978; effective May 1, 1979; revoked Feb. 18, 2005.)

LODGING ESTABLISHMENTS

28-36-33 through 28-36-45. (Authorized by K.S.A. 1978 Supp. 36-506; effective May

1, 1979; revoked, T-28-10-8-07, Oct. 8, 2007; revoked Feb. 1, 2008.)

28-36-46. (Authorized by and implementing K.S.A. 36-506; effective May 1, 1983; revoked, T-28-10-8-07, Oct. 8, 2007; revoked Feb. 1, 2008.)

28-36-47. (Authorized by and implementing K.S.A. 36-506; effective May 1, 1983; revoked, T-28-10-8-07, Oct. 8, 2007; revoked Feb. 1, 2008.)

28-36-48. (Authorized by and implementing K.S.A. 36-507; effective May 1, 1983; revoked, T-28-10-8-07, Oct. 8, 2007; revoked Feb. 1, 2008.)

28-36-49. (Authorized by and implementing K.S.A. 36-507; effective May 1, 1983; revoked, T-28-10-8-07, Oct. 8, 2007; revoked Feb. 1, 2008.)

28-36-60. (Authorized by and implementing 2001 SB 100, Secs. 2 and 3; effective, T-28-7-2-01, July 2, 2001; effective Nov. 9, 2001; revoked Feb. 18, 2005.)

28-36-70. Definitions. Each of the following terms as used in K.A.R. 28-36-70 through K.A.R. 28-36-89 shall have the meaning assigned in this regulation. (a) "Bathhouse" means a room provided to guests, including a locker room, shower room, or other similar room, where guests can shower, store personal items, or change into appropriate clothing for use in the spa.

(b) "Bed and breakfast home" means a boarding house that is a private residence where the owner or manager resides and provides lodging and meals for guests. Any licensee operating a bed and breakfast home may serve food only to the licensee's overnight guests, unless the licensee obtains a food service license.

(c) "Boarding house" has the meaning specified in K.S.A. 36-501, and amendments thereto.

(d) "Egress" means an exit or route leading out of a lodging establishment.

(e) "Extended-stay establishment" means a lodging establishment in which a room is rented or leased to transient guests. Housekeeping functions are not provided on a daily basis.

(f) "Hotel" has the meaning specified in K.S.A. 36-501, and amendments thereto.

(g) "Hot tub" means a pool or container of water designated for recreational use in which one or more people can soak. A hot tub can use hydrojet circulation or an air induction system, or a combination of these, to provide water circulation. A hot tub can use various water temperatures and

additives, including minerals and oils, to provide therapy or relaxation.

(h) "KDHE" means Kansas department of health and environment.

(i) "Kitchenette" means a compact kitchen with cooking utensils, tableware, refrigerator, microwave, stove, or sink or any combination of these.

(j) "Licensee" means a person who is responsible for the operation of the lodging establishment and possesses a valid license to operate a lodging establishment.

(k) "Linens" means the cloth items used in the lodging establishment, including sheets, bedspreads, blankets, pillowcases, mattress pads, towels, and washcloths.

(l) "Lodge" means a boarding house or a rooming house that provides seasonal lodging for recreational purposes. If meals are provided for overnight guests, the lodge is operating as a boarding house. If meals are not provided for overnight guests, the lodge is operating as a rooming house.

(m) "Lodging establishment" has the meaning specified in K.S.A. 36-501, and amendments thereto.

(n) "Major renovation" means a physical change to a lodging establishment or portion of a lodging establishment, including the following:

(1) Replacing or upgrading any of the following types of major systems:

(A) Electrical;

(B) plumbing;

(C) heating, ventilation, and air-conditioning;

(2) demolition of the interior or exterior of a building or portion of the building; and

(3) replacement, demolition, or installation of interior walls and partitions, whether fixed or moveable.

Major renovation shall not include replacement of broken, dated, or worn equipment and other items, including individual air-conditioning units, bathroom tiles, shower stalls, and any other items that do not require additional or new plumbing or electrical repairs.

(o) "Municipality" has the meaning specified in K.S.A. 36-501, and amendments thereto.

(p) "Person" has the meaning specified in K.S.A. 36-501, and amendments thereto.

(q) "Person in charge" means the individual or employee who is present in the lodging establishment at the time of the inspection and who is responsible for the operation. If no designated individual or employee is the person in charge, then any employee present is the person in charge.

(r) “Recreational water facility” and “RWF” mean a water environment with design and operational features that provides guests with recreational activity and that involves immersion of the body partially or totally in the water. This term shall include water slides, watercourse rides, water activity pools, jetted pools, and wave pools. This term shall not include swimming pools and hot tubs.

(s) “Regulatory authority” means the secretary of the department of health and environment or the secretary’s designee.

(t) “Rooming house” has the meaning specified in K.S.A. 36-501, and amendments thereto.

(u) “Sanitize” means to apply cumulative heat or chemicals on any clean surface so that, when evaluated for efficacy, the surface yields a reduction of 99.999% of disease-causing microorganisms.

(v) “Secretary” has the meaning specified in K.S.A. 36-501, and amendments thereto.

(w) “Single-service articles” means items that are designed, constructed, and intended for one-time use and for one person’s use, after which the item is discarded. This term shall include plastic, paper, or foam tableware and utensils, lightweight metal foil, stirrers, straws, toothpicks, and other items including single-use gloves, bags, liners, containers, placemats, and wrappers.

(x) “Spa” means any area of a lodging establishment where a hot tub, swimming pool, fitness equipment, tanning bed, or similar guest amenities are located.

This regulation shall be effective on and after February 5, 2008. (Authorized by K.S.A. 36-506; implementing K.S.A. 36-501 and 36-506; effective, T-28-10-8-07, Oct. 8, 2007; effective Feb. 5, 2008.)

28-36-71. Licensure; plans and specifications; variances. (a) Each person applying for a license to operate a lodging establishment shall submit the following to the department:

(1) A completed application and the required application and license fees; and

(2) if required by subsection (b), the plans and specifications of the lodging establishment.

(b) The plans and specifications shall be submitted before any of the following:

(1) The construction of a lodging establishment;

(2) the conversion of an existing structure for use as a lodging establishment;

(3) the major renovation of a lodging establishment;

(4) the addition or major renovation of a swimming pool, hot tub, RWF, or spa; or

(5) the addition or change of a food service operation within a lodging establishment.

(c) Each plan and specification for a lodging establishment shall demonstrate conformance with the applicable requirements of these regulations and shall include the following:

(1) The proposed layout, mechanical schematics, construction materials, and completion schedules;

(2) the equipment layout, construction materials, and completion schedules for any food preparation and service area; and

(3) the equipment layout and completion schedules for each swimming pool, hot tub, RWF, and spa.

(d) A variance may be granted by the regulatory authority to modify or waive one or more requirements of a regulation if the regulatory authority determines that a health hazard, safety hazard, or nuisance will not result from the variance.

(1) Each person requesting a variance shall submit the following to the department:

(A) A written statement of the proposed variance of the regulatory requirement;

(B) documentation of how the proposed variance addresses public health hazards and guest safety at the same level of protection as that of the original requirement; and

(C) any other relevant information if required by the secretary.

(2) For each variance granted, the licensee shall meet the following requirements:

(A) Follow the plans and procedures approved by the regulatory authority;

(B) maintain a permanent record of the variance at the lodging establishment; and

(C) maintain and provide to the regulatory authority, upon request, records that demonstrate that the variance is being followed.

This regulation shall be effective on and after February 5, 2008. (Authorized by and implementing K.S.A. 36-502 and 36-506; effective, T-28-10-8-07, Oct. 8, 2007; effective Feb. 5, 2008.)

28-36-72. Food service and food safety. Each licensee that serves food shall comply with one of the following provisions:

(a) Each licensee, if serving food to the general public, shall be required to obtain a food service license in accordance with K.S.A. 36-501 et seq., and amendments thereto, and comply with all

provisions of the Kansas food code regulations, K.A.R. 28-36-101 through K.A.R. 28-36-108.

(b) A licensee that provides only commercially prepared, individually portioned prepackaged foods that are non-potentially hazardous or offers whole, uncut fresh fruits or coffee for guests shall not be considered to be operating a food establishment as specified in K.A.R. 28-36-101, but shall comply with all of the following requirements:

(1) All food shall be free from spoilage, filth, or other adulteration and shall be safe for human consumption.

(2) Condiments, if provided, shall be in individual packages.

(3) Only single-service articles shall be used for serving food.

(4) Single-service articles shall be stored, handled, and dispensed in a manner that prevents contamination of food contact surfaces.

(5) All food service areas and all food contact surfaces shall be smooth, free of breaks, open seams, cracks, chips, and similar imperfections and shall be kept clean.

(6) All food shall be stored and presented in a way that protects the food from cross contamination.

(7) All food service and storage areas shall be free of the evidence of insects, rodents, and other pests.

(8) Employees that handle food shall observe hygienic practices during all working periods of food service. Employees shall wash their hands before working with food; after using the toilet, smoking, eating, and drinking; and as often as necessary to keep their hands clean.

(c) Each licensee of a hotel that stores, prepares, packages, serves, or otherwise provides food to the licensee's overnight guests shall obtain a food service license in accordance with K.S.A. 36-501 et seq., and amendments thereto, and comply with all provisions of the Kansas food code regulations, K.A.R. 28-36-101 through K.A.R. 28-36-108.

(d) Any licensee of a boarding house who does not have a food service license as specified in K.S.A. 36-501 et seq., and amendments thereto, may serve food only to the overnight guests. The licensee of each boarding house shall comply with all applicable provisions of the Kansas food code regulations, K.A.R. 28-36-101 through K.A.R. 28-36-108.

This regulation shall be effective on and after

February 5, 2008. (Authorized by and implementing K.S.A. 36-506; effective, T-28-10-8-07, Oct. 8, 2007; effective Feb. 5, 2008.)

28-36-73. Imminent health hazard.

(a) Each licensee shall discontinue operations of the affected portions of the lodging establishment on discovery that an imminent health hazard exists.

"Imminent health hazard" shall include fire, flood, sewage backup, rodent infestation, bed bug or other insect infestation, misuse of poisonous or toxic materials, gross unsanitary occurrence or condition, or any other condition that could endanger the health and safety of guests, employees, and the general public.

(b) Each licensee shall notify the regulatory authority within 12 hours of the discovery of an imminent health hazard.

This regulation shall be effective on and after February 5, 2008. (Authorized by and implementing K.S.A. 36-506; effective, T-28-10-8-07, Oct. 8, 2007; effective Feb. 5, 2008.)

28-36-74. General requirements.

(a) Each licensee shall meet all of the following requirements:

(1) Post the license in a location in the lodging establishment that is conspicuous to guests;

(2) comply with the provisions of these regulations, including the conditions of any granted variance;

(3) ensure that no room or any portion of the lodging establishment is rented unless the room or portion of the lodging establishment is safe and sanitary; and

(4) replace any existing items, including equipment, furnishings, fixtures, or items of décor, with items that meet the requirements of these regulations, under any of the following conditions:

(A) The items constitute a public health hazard;

(B) the items affect guest safety; or

(C) the items do not meet the requirements of these regulations.

(b) Each licensee shall ensure that the hot water capacity is sufficient to meet the hot water demands of the lodging establishment.

(c) Each licensee shall ensure that all handwashing sinks meet all of the following requirements:

(1) Hot and cold potable water shall be supplied under pressure to each sink in enough capacity to meet handwashing needs.

(2) A mixing valve or combination faucet shall be used, unless the lodging establishment is listed

on the state historical register or a variance that alters this requirement has been granted.

(3) The temperature of the hot water shall be at least 100 degrees Fahrenheit. If a mixing valve or combination faucet is not used, the temperature of the hot water shall not exceed 130 degrees Fahrenheit.

(4) A supply of hand soap and either paper towels or an electric drying device shall be available at all times at the handwashing sink.

(d) In public areas, cloth towels may be provided for one-time use by an individual. A receptacle for the soiled cloth towels shall be provided.

(e) The use of a common cloth towel shall be prohibited, except in guest rooms.

(f) A handwashing reminder sign shall be posted in each handwashing area, except in guest rooms.

(g)(1) A toilet room that is accessible at all times to employees shall be provided. A public toilet room may be used by employees in lieu of a separate employee toilet room.

(2) A public toilet room or rooms shall be provided and accessible to the public if the lodging establishment provides space for guest or public gatherings or functions, including conferences, meetings, seminars, receptions, teas, dances, recitals, weddings, parties, wakes, and other events.

(3) There shall be at least one handwashing sink in or immediately adjacent to each toilet room. Each sink shall meet the requirements specified in subsection (c).

(4) Each toilet and urinal shall be sanitary, maintained in good repair, and operational at all times.

(5) Each toilet and urinal shall be cleaned and sanitized daily or more often if visibly soiled.

(6) The floor in each toilet room shall be constructed of smooth, nonabsorbent, easily cleanable materials and maintained in good repair. Carpeting shall be prohibited as a floor covering in toilet rooms.

(7) Except as specified in this paragraph, the storage of items in any toilet room shall be prohibited. A small amount of commonly used toilet room supplies may be stored, including toilet paper, hand soap, and paper towels.

This regulation shall be effective on and after February 5, 2008. (Authorized by and implementing K.S.A. 36-506; effective, T-28-10-8-07, Oct. 8, 2007; effective Feb. 5, 2008.)

28-36-75. Personnel; health, cleanli-

ness, and clothing. Each licensee shall ensure that all of the following requirements are met:

(a) Health of employees. Each employee with any of the following health problems shall be excluded from a lodging establishment:

(1) The employee is infected with a communicable disease, and the disease can be transmitted to other employees or guests in the normal course of employment.

(2) The employee is a carrier of organisms that cause a communicable disease.

(3) The employee has a boil, an infected wound, or an acute respiratory infection.

(b) Cleanliness of employees.

(1) Each employee shall wash that employee's hands in accordance with paragraph (b)(2) before handling clean utensils or dishware, ice, beverages, food, or clean laundry.

(2) Each employee shall wash that employee's hands and any exposed portions of that employee's arms with soap and water in a designated sink by vigorously rubbing together the surfaces of the lathered hands and arms for 15 seconds to 20 seconds and thoroughly rinsing with clean water.

(c) Clothing. Each employee providing services directly to guests or performing housekeeping functions shall wear clean outer clothing that is in good repair.

This regulation shall be effective on and after February 5, 2008. (Authorized by and implementing K.S.A. 36-506; effective, T-28-10-8-07, Oct. 8, 2007; effective Feb. 5, 2008.)

28-36-76. Guest and public safety. (a) If the regulatory authority has reason to believe that defects could be present with regard to the integrity of the structure or electrical system of the lodging establishment, that authority may require the licensee to retain the services of a professional engineer or local building code officer to certify the lodging establishment for building safety. Disasters after which the structural integrity may need to be evaluated shall include a heavy snow or ice storm, flood, tornado, straight-line winds, fire, hurricane, and earthquake.

(b) Each licensee shall ensure that all repairs, construction, renovations, and maintenance are conducted in a manner that provides safe conditions for the guests and the public.

(c) The licensee of each lodging establishment using fuel-fired equipment or appliances that pose a potential carbon monoxide risk, including lodg-

ing establishments with attached parking garages or wood-burning fireplaces, shall install one or more carbon monoxide detectors according to the manufacturer's specifications.

(1) A carbon monoxide detector shall be required in each non-guest room adjoining or sharing a common ventilation system with an attached parking garage.

(2) Each carbon monoxide detector shall be in working condition.

(A) Each carbon monoxide detector shall be tested at least every six months to ensure that the detector is operating properly. The batteries shall be changed, as needed.

(B) A 12-month history of all test results shall be logged and maintained at the lodging establishment and made available to the regulatory authority upon request.

(C) If a battery-operated detector is not operational for two consecutive tests, the licensee shall install a detector that is hardwired with a battery backup.

(3) A carbon monoxide detector shall not be required to be installed in an attached parking garage area.

(d) The operation and maintenance requirements for each lodging establishment shall include all of the following:

(1) Each lodging establishment shall meet the requirements of all applicable building codes, fire codes, and ordinances.

(2) No freshly cut Christmas trees or boughs shall be used unless the freshly cut trees or boughs are treated with a flame-resistant material. The documentation of the treatment shall be kept on file at the lodging establishment for at least one year.

(3) Textile materials having a napped, tufted, looped, woven, nonwoven, or similar surface shall not be applied to walls or ceilings, unless the textile materials are treated with a flame-resistant material. The documentation of the treatment shall be kept on file at the lodging establishment for as long as the materials are used on the walls or ceilings. This documentation shall be made available to the regulatory authority upon request. Carpeting used as coving that covers the junction between the floor and walls shall be exempt from this requirement.

(4) Foam or plastic materials or other highly flammable or toxic material shall not be used as an interior wall, ceiling, or floor finish unless approved by the regulatory authority.

(5) The doors in any public areas that lead outside the lodging establishment shall not be locked or blocked, preventing egress when the building is occupied. No exit doors shall be concealed or obscured by hangings, draperies, or any other objects.

(6)(A) Portable fire extinguishers shall be required and located in the hallways, mechanical rooms, laundry areas and all other hazardous areas and within 75 feet of each guest room door. All portable fire extinguishers shall be easily accessible to the guests and employees.

(B) Each fire extinguisher shall meet the following requirements:

(i) Be maintained in a fully charged and operable condition;

(ii) be rated at least 2A-10BC;

(iii) contain at least five pounds of fire suppressant; and

(iv) be inspected annually by a fire extinguisher company, a fire department representative, or another entity approved by the regulatory authority. The licensee shall retain a record of these inspections at the lodging establishment for at least one year.

(7) Emergency lighting shall be provided where guest room doors open to an interior corridor and where guest room doors open to the outside but not directly at ground level.

(8) A smoke detector shall be installed in each guest sleeping room, cooking area and kitchen, interior stairwell, hallway, laundry area, mechanical room, and any other fire hazard area. Any heat-sensing device designed to detect fire may be installed in a cooking area in lieu of a smoke detector.

(A) All smoke detectors and heat-sensing devices shall be maintained in operating condition.

(B) Each smoke detector and each heat-sensing device shall be tested at least every six months to ensure that the detector or device is operating properly. The batteries shall be replaced as needed.

(C) A 12-month history of test results shall be logged and maintained at the lodging establishment and made available to the regulatory authority upon request.

(D) If a battery-operated detector is not operational for two consecutive tests, the licensee shall install a detector that is hardwired with a battery backup.

(E) Smoke detectors for hearing-impaired in-

dividuals shall be available as specified in K.S.A. 36-517, and amendments thereto.

(9) If hardwired, interconnected smoke detectors are used, these detectors shall be tested and approved annually by a fire sprinkler company, fire alarm company, fire department representative, or any other entity approved by the regulatory authority. A 12-month history of test results shall be maintained at the lodging establishment and made available to the regulatory authority upon request.

(10) If fire alarm systems and fire sprinkler systems are used, the systems shall be tested and approved annually by a fire alarm company, fire sprinkler company, fire department representative, or any other entity approved by the regulatory authority. A 12-month history of test results shall be maintained at the lodging establishment and made available to the regulatory authority upon request.

(11)(A) All exit signs shall be clean and legible. At least one exit sign shall be visible from each of the following locations:

(i) The doorway of each guest room that opens to an interior corridor; and

(ii) the doorway of each guest room that opens to the outdoors but not directly at ground level.

(B) Each newly constructed lodging establishment shall have supplemental directional signs indicating the direction and path of egress.

(C) Boarding houses and rooming houses shall not be required to have exit signs if the requirements in paragraphs (d)(5) and (12) are met.

(12) An evacuation route diagram shall be posted in a conspicuous location in each guest room. The diagram shall include the location of the guest room, the layout of the floor, and the location of the nearest available exits. If the door of a guest room opens directly to the outdoors at ground level, the diagram shall not be required to be posted.

(13) A copy of an emergency management plan and employee instructions shall be kept on file in the lodging establishment, made accessible to all employees, and made available to the regulatory authority upon request. A record that each employee has received training on the emergency management plan shall be maintained at the lodging establishment in each employee's file.

This regulation shall be effective on and after February 5, 2008. (Authorized by and implementing K.S.A. 36-506; effective, T-28-10-8-07, Oct. 8, 2007; effective Feb. 5, 2008.)

28-36-77. Guest rooms. Each licensee shall ensure that each guest room is kept clean, is in good repair, and is maintained with regard to the health and safety of each guest, in accordance with all of the following requirements:

(a) The walls, floors, ceilings, doors, and windows shall be constructed of materials intended for that purpose, maintained in good repair, and cleaned, painted, or replaced as necessary.

(1) All junctures between floors and walls shall be constructed, covered, or finished with a baseboard and readily cleanable.

(2) All floors and floor coverings shall be cleaned as needed. The methods for cleaning shall be suitable to the finish and material.

(3) All floor maintenance, repair, or replacement shall be done in a manner that prevents slipping or tripping hazards to any guest.

(4) A guest room that has visible mold on the floors, walls, ceiling, or windows shall not be rented until mold cleanup is completed.

(b) All furnishings, including draperies, beds, appliances, furniture, lamps, and decorative items, shall be kept clean and in good repair. The methods for cleaning shall be suitable to the material and finish.

(c) Each guest room shall have a connecting toilet room and bathing facilities, including a bathtub or shower, except for the following:

(1) If the lodging establishment is listed on the state historical register and documentation is provided to the regulatory authority, at least one toilet room with bathing facilities located on the same floor shall be provided for every two guest rooms, unless otherwise specified by the regulatory authority.

(2) If the lodging establishment is a boarding house, including a bed and breakfast home, or a rooming house, at least one toilet room with bathing facilities located on the same floor shall be provided for every two guest rooms.

(3) If the lodging establishment is a lodge with dormitory sleeping areas, at least one toilet and at least one bathtub or one shower shall be provided for every six guests and shall be located within the same building as the dormitory sleeping area or adjacent to the dormitory sleeping area.

(d) Each handwashing sink shall meet the requirements specified in K.A.R. 28-36-74.

(e) Each rented guest room shall be serviced daily in the following manner except as otherwise specified in this subsection:

(1) Clean bathroom linens, including towels and

washcloths, shall be provided. If bathmats are provided, the bathmats shall be clean.

(2) Clean bed linens shall be provided, and the bed shall be made.

(3) All floors shall be swept or vacuumed, if visibly soiled. All hard-surface floors shall be wet-cleaned if visibly soiled.

(4) Each toilet, sink, bathtub, and shower area shall be cleaned if visibly soiled.

(5) Each trash container shall be emptied and shall be cleaned if visibly soiled. A trash container liner may be reused during the same guest's stay if the liner is not visibly soiled.

(6) All soap and prepackaged guest toiletry items shall be replenished, as necessary.

(7) All toilet paper shall be replenished, as necessary.

(8) Clean ice bucket liners shall be provided and replaced, as necessary and upon request of the guest.

(9) All glassware and cups, if provided, shall be replaced with clean and sanitized dishware. Single-service cups, if provided, shall be replenished.

(10) If a coffeemaker is present in the guest room, the coffeepot shall be rinsed. If the coffeepot is visibly soiled or contaminated, it shall be washed, rinsed, and sanitized. A fresh supply of coffee, condiments, and any single-service articles shall be replenished, if provided.

(f) Each guest room shall be serviced daily during the guest's stay if the stay is less than five days, unless the guest requests that all or part of the room not be serviced.

(g) If the same guest continuously occupies the same room for five or more days, the room shall be serviced and cleaned at least every five days. For each extended-stay establishment, the guest room shall be serviced and cleaned at least every five days.

(h) Each guest room that is available for rent shall be serviced and cleaned before each new guest. In addition to the required service activities in subsection (e), each guest room cleaning shall include the following:

(1) All floors shall be swept or vacuumed, and all hard-surface floors shall be wet-cleaned.

(2) All furniture, fixtures, and any items of decoration shall be cleaned in a manner that is appropriate to the finish.

(3) The interior of all drawers shall be cleaned.

(4) All toilets, sinks, bathtubs, and shower areas shall be cleaned and sanitized in a manner that is appropriate to the finish.

(5) All sinks, bathtubs, and shower areas shall be kept free of hair, mold, and mildew.

(6) Bed linens and bath linens shall not be used for cleaning or dusting.

(7) All trash containers shall be emptied and cleaned, and new liners shall be provided.

(8) All ice bucket liners shall be replaced with new liners.

(9) All used guest toiletries and soap shall be replenished.

(10) The guest room shall be visually inspected for any evidence of insects, rodents, and other pests.

(i)(1) All bedspreads, top-covering linens, blankets, mattress pads, mattresses, and box springs shall be cleaned and maintained in good repair according to all of the following requirements:

(A) All linens with tears or holes shall be repaired or replaced, and all soiled and stained linen shall be cleaned.

(B) All bedspreads and top-covering linens shall be cleaned at least monthly.

(C) All blankets and mattress pads shall be cleaned at least monthly. All blankets and mattress pads that are visibly soiled or stained shall be removed and replaced with clean linen.

(D) All mattresses and box springs shall be kept clean. Each damaged or soiled mattress and box spring shall be repaired or cleaned.

(E) Each mattress that is not kept in sanitary condition shall be replaced.

(2) The interior and surface of each enclosed mattress platform shall be cleaned if visibly soiled and either maintained in good repair or replaced.

(j) The requirements of one of the following paragraphs shall be met:

(1) No coffeemaker or coffeepot shall be located within a toilet room. Each coffeepot shall be rinsed before each new guest.

(2) Each coffeepot located within a toilet room shall be washed, rinsed, and sanitized before each new guest as specified in K.A.R. 28-36-78.

(k) All single-service drinking glasses and utensils shall be prepackaged.

(l) All food and condiments provided in each guest room shall be individually prepackaged.

(m) If a refrigerator unit is provided in a guest room, the unit shall be cleaned before each new guest.

(n) Each appliance provided for guest use, including microwaves, stoves, dishwashing machines, coffeemakers, hair dryers, clothing irons, radios, televisions, remote controls, and video

equipment, shall be operational and in good repair. All cooking appliances, including microwaves and stoves, shall be cleaned before each new guest. All appliances shall be listed with or certified by underwriters' laboratories (UL) and shall bear the UL designation.

(o) Except as specified in this subsection, the use of portable electrical or open-flame cooking devices shall be prohibited in a guest room. These devices shall include hot plates, electric skillets and grills, propane and charcoal grills, camping stoves, and any similar cooking devices. These devices shall not include slow cookers. Microwaves and toasters that are provided in a guest room by the licensee shall be permitted.

(p) Each guest room shall be free of any evidence of insects, rodents, and other pests.

(1) If a guest room has been vacant for at least 30 days, the licensee shall visually inspect that room for any evidence of insects, rodents, and other pests within 24 hours of occupancy by the next guest.

(2) No guest room that is infested by insects, rodents, or other pests shall be rented until the infestation is eliminated.

(3) The presence of bed bugs, which is indicated by observation of a living or dead bed bug, bed bug carapace, eggs or egg casings, or the typical brownish or blood spotting on linens, mattresses, or furniture, shall be considered an infestation.

(4) The presence of bed bugs shall be reported to the regulatory authority within one business day upon discovery or upon receipt of a guest complaint.

(5) All infestations shall be treated by a licensed pest control operator (PCO).

(6) All pest control measures, both mechanical and chemical, shall be used in accordance with the manufacturer's recommendations.

(7) No rodenticides, pesticides, or insecticides shall be stored in a guest room or in any area that could contaminate guest supplies, food, condiments, dishware, or utensils.

(q) (1) The licensee of each lodging establishment that allows pets into any guest room shall advise consumers that the establishment is "pet-friendly" by posting a sign in a conspicuous place at the front desk to alert guests that pets are allowed.

(2) The licensee of each lodging establishment where pets or service animals have been in a guest room shall meet one of the following requirements:

(A) The guest room shall be deep cleaned before the next guest. Deep cleaning shall include servicing and cleaning the guest room as specified in subsections (e) and (h), as well as vacuuming and shampooing the carpet and upholstered furnishings and vacuuming the mattress. All bed linens, including sheets, mattress pads, blankets, bedspreads or top coverings, and pillows, shall be replaced with clean bed linens.

(B) If the room is not deep cleaned, the licensee shall not offer that room to any guest without giving notification to that guest that a pet or service animal was in the room previous to the new guest.

(3) If the previous guest has smoked in a room, the licensee of any lodging establishment shall not offer that room as a non-smoking room until one of the following requirements is met:

(A) The guest room is deep cleaned as specified in paragraph (q)(2)(A).

(B) If the room is not deep cleaned, the licensee shall give notification to the new guest that the previous guest smoked in the room.

(r) Each guest room shall be provided with a means for locking each entrance both from the inside and from the outside, according to all of the following requirements:

(1) The key furnished to each guest shall not unlock the door to any other guest room.

(2) At least one secondary lock, including a dead bolt lock, thumb bolt, chain lock, or a similar device, shall be provided in addition to the primary key lock and shall be installed in accordance with the manufacturer's specifications.

(3) All locks shall be in good repair and fully operational.

(s) Each pair of connecting guest rooms shall have two doors in the connecting doorway. Each connecting door shall be equipped with a lock on only the guest room side of that door.

(t) If cribs are provided upon request, the cribs shall be easily cleanable, safe, and in good repair. Each crib rail, pad, and mattress shall be cleaned and sanitized after each guest.

This regulation shall be effective on or after February 5, 2008. (Authorized by and implementing K.S.A. 36-506; effective, T-28-10-8-07, Oct. 8, 2007; effective Feb. 5, 2008.)

28-36-78. Dishware and utensils. Each licensee shall ensure that all of the following requirements are met: (a) General.

(1) All dishware and utensils that are designed for repeat use shall be made of safe, durable, and

nonabsorbent material and shall be kept in good repair. No cracked or chipped dishware or utensils shall be provided for use by guests or employees.

(2) All single-service articles shall be constructed of safe, durable, and nonabsorbent materials.

(3) All single-service drinking glasses and utensils shall be prepackaged or protected in a dispenser.

(4) No single-service articles may be reused.

(b) Storage.

(1) All clean dishware and utensils and all single-service articles shall be protected from dirt, dust, liquids, insects, vermin, and any other sources of contamination at all times.

(2) Each licensee shall provide storage facilities for dishware and utensils in a clean, dry location at least six inches above the floor.

(3) No dishware and utensils shall be stored under an exposed sewer line or a dripping water line.

(4) No dishware, utensils, single-service articles, ice buckets, and food containers shall be stored within a toilet room.

(c) Cleaning and sanitization. Each licensee shall use either manual cleaning and sanitizing equipment or mechanical cleaning and sanitizing equipment.

(1) All dirty or used glasses, dishware, and utensils that are in areas other than a guest room kitchenette shall be removed from each guest room during the servicing or cleaning of the room and upon vacancy of that room. All items shall be washed, rinsed, and sanitized using one of the approved methods in this regulation.

(2) If the licensee provides repeat service dishware or utensils to the lodging establishment's guests or to the public, the licensee shall install in the lodging establishment, or in a food service area operated in conjunction with the lodging establishment, manual or mechanical cleaning equipment for dishware and utensils that meets the requirement of this regulation.

(3) The manual cleaning and sanitizing of dishware, utensils, and food equipment shall meet all of the following requirements:

(A) (i) A sink with at least three compartments or three adjacent sinks shall be used and shall be large enough to permit the immersion of the largest item of dishware, utensil, or food equipment articles to be cleaned.

(ii) All sinks and dishware drying surfaces shall be cleaned before use.

(B) Each compartment of the sink shall be supplied with hot and cold potable running water.

(C) The wash, rinse, and sanitizing water shall be kept clean.

(D) The steps for manual cleaning and sanitizing shall consist of all of the following:

(i) All dishware, utensils, and food equipment shall be thoroughly washed in the first compartment with a hot detergent solution.

(ii) All dishware, utensils, and food equipment shall be rinsed free of detergent and abrasives with clean water in the second compartment.

(iii) All dishware, utensils, and food equipment shall be sanitized in the third compartment according to one of the methods in paragraph (c)(3)(E).

(E) The food contact surfaces of all dishware, utensils, and food equipment shall be sanitized during manual ware washing by one of the following methods:

(i) Immersion for at least 10 seconds in a clean solution containing 50 to 200 parts per million of available chlorine, with a water temperature of at least 75 degrees Fahrenheit;

(ii) immersion for at least 30 seconds in clean hot water with a temperature of at least 171 degrees Fahrenheit;

(iii) immersion in a clean solution containing a quaternary ammonium compound with a minimum water temperature of 75 degrees Fahrenheit and with the concentration indicated by the manufacturer's directions on the label; or

(iv) immersion in a clean solution containing a sanitization chemical other than those specified in this subsection that meets the applicable requirements specified in K.A.R. 28-36-104.

(F) A chemical test kit, thermometer, or other device that accurately measures the concentration of sanitizing chemicals, in parts per million, and the temperature of the water shall be available and used daily.

(4) The mechanical cleaning and sanitizing of dishware, utensils, and food equipment may be done by spray-type or immersion commercial dishwashing machines. Another type of dishwashing machine or device may be used if the machine or device meets the requirements of this regulation.

(A) Each dishwashing machine and device shall be properly installed and maintained in good repair and shall be operated in accordance with the manufacturer's instructions.

(B) If an automatic detergent dispenser, rinsing

agents dispenser, or liquid sanitizer dispenser is used, the dispenser shall be properly installed and maintained.

(C) Each dishwashing machine using hot water to sanitize shall be installed and operated according to the manufacturer's specifications and shall achieve a minimum dishware and utensil surface temperature of 160 degrees Fahrenheit as measured by a dishwasher-safe thermometer. For each dishwashing machine using hot water to sanitize that does not cause the surface temperature of the dishware and utensils to reach a temperature of 160 degrees Fahrenheit, one of the following requirements shall be met:

(i) The licensee shall install a heat booster.

(ii) The licensee shall provide the regulatory authority with documentation of a time and temperature relationship that results in the sanitization of the dishware and utensils.

(D) The final rinse temperature of each dishwashing machine using hot water to sanitize shall be monitored by a dishwasher-safe thermometer.

(E) All dishware, utensils, and food equipment shall be exposed to all dishwashing and drying cycles.

(F) Each dishwashing machine using chemicals for sanitization shall be used as follows:

(i) The temperature of the wash water shall be at least 120 degrees Fahrenheit, and the chemical sanitizing rinse water shall be at least 75 degrees Fahrenheit unless specified differently by the machine's manufacturer.

(ii) The wash water shall be kept clean.

(iii) The chemicals added for sanitization purposes shall be automatically dispensed.

(iv) All dishware, utensils, and food equipment shall be exposed to the final chemical sanitizing rinse in accordance with the manufacturer's specifications for time and concentration.

(v) All chemical sanitizers shall meet the applicable requirements of K.A.R. 28-36-104.

(G) A chemical test kit, thermometer, or other device that accurately measures the concentration of sanitizing chemicals, in parts per million, and the temperature of the water shall be available and used daily.

(H) Each dishwashing machine or device shall be cleaned as often as necessary to be maintained in operating condition according to the manufacturer's specifications.

(d) All dishware, utensils, and food equipment shall be air-dried.

(e) Each licensee that provides dishware, uten-

sils, and food equipment in the guest room shall clean and sanitize the dishware, utensils, and food equipment provided by one of the following methods:

(1) Provide manual dishwashing and sanitizing as specified in paragraph (c)(3);

(2) provide a mechanical dishwashing machine as specified in paragraph (c)(4); or

(3) provide a complete set of clean and sanitized dishware, utensils, and food equipment before each new guest arrives.

This regulation shall be effective on and after February 5, 2008. (Authorized by and implementing K.S.A. 36-506; effective, T-28-10-8-07, Oct. 8, 2007; effective Feb. 5, 2008.)

28-36-79. Housekeeping and laundry facilities; maintenance supplies and equipment. Each licensee shall ensure that all housekeeping and laundry facilities and equipment are clean and maintained in good repair. Each licensee shall ensure that all of the following requirements are met:

(a)(1) Each housekeeping cart shall be maintained and operated to prevent the contamination of clean linens by dirty linens.

(2) Each housekeeping cart shall be designed, maintained, and operated to protect clean glasses, utensils, dishware, single-service articles, food, coffee, and condiments from dirty linens and other sources of contamination, including dirty glasses and dishware, cleaning and sanitizing agents, and poisonous or toxic materials.

(3) Each service or utility cart shall be maintained and operated to prevent the contamination of clean linens by dirty linens or other sources of contamination, according to one of the following methods:

(A) Cleaning and sanitizing the service cart before transporting clean linens;

(B) lining the service cart with a clean liner before transporting clean linens;

(C) placing the clean linens in a clean container before transporting the linens in the service cart; or

(D) using another method as approved by the regulatory authority.

(4) All laundry bags used for dirty linen shall be laundered before being used for clean linen.

(5) Each housekeeping cart and each service cart shall be kept clean and in good repair.

(b)(1) Each licensee shall provide laundry fa-

cilities, unless a commercial laundry service is used.

(2) All clean laundry shall be handled in a manner that prevents contact with dirty linen.

(3) Each laundry area shall be designed and arranged in a manner that provides for the functional separation of clean and dirty laundry. A space large enough for sorting and storing soiled linens and for sorting and storing clean linens shall be provided.

(4) The laundry facilities shall be located in areas that are not used by guests or the public and are not used as corridors or passageways.

(5) The laundry area shall be kept clean and free from accumulated lint and dust.

(6) The laundry facilities and areas shall be used for their intended purpose and shall not be used for storage of equipment or supplies not related to the laundering process.

(7) All laundry equipment shall be functional and in good repair. Any laundry equipment that is no longer in use shall be removed from the laundry area.

(8) Each lodging establishment that is newly constructed, undergoes a major renovation, or is licensed under a new ownership shall be required to have a hand sink in the laundry area. Each hand sink shall meet the requirements specified in K.A.R. 28-36-74.

(9) All housekeeping and cleaning supplies and equipment shall be stored in a designated area. The storage area may be in the laundry area if the supplies and equipment are physically separated from the laundry, laundry equipment, and laundry supplies.

(c) All laundry that is cleaned commercially off the premises shall have a segregated storage space for clean and dirty laundry and shall be located and equipped for convenient pick-up and delivery.

(d) Separate laundry facilities may be provided for use by guests if these facilities are located in a room or area of the lodging establishment designated only for guest laundry. The area and equipment shall be kept clean and in good repair.

(e) Single-use gloves shall be available for housekeeping and laundry staff and made available in the laundry and housekeeping areas.

(f) A specific location or area shall be provided for the storage of maintenance supplies and equipment. No other items shall be stored in this location or area.

This regulation shall be effective on and after

February 5, 2008. (Authorized by and implementing K.S.A. 36-506; effective, T-28-10-8-07, Oct. 8, 2007; effective Feb. 5, 2008.)

28-36-80. Poisonous or toxic materials.

Each licensee shall ensure that all of the following requirements are met: (a) Only those poisonous or toxic materials that are required for the operation and maintenance of the lodging establishment shall be allowed on the premises, including the following:

(1) Detergents, sanitizers, cleaning or drying agents, caustics, acids, polishes, and similar chemicals;

(2) insecticides and rodenticides;

(3) building maintenance materials, including paint, varnish, stain, glue, and caulking; and

(4) landscaping materials, including herbicides, lubricants, and fuel for equipment.

(b) The storage of poisonous or toxic materials shall meet all of the following requirements:

(1) The substances listed in each of the four categories specified in subsection (a) shall be stored on separate shelves or in separate cabinets. These shelves and cabinets shall be used for no other purpose.

(2) To prevent the possibility of contamination, poisonous or toxic materials shall not be stored above food, ice or ice-making equipment, linens, towels, utensils, single-service articles, or guest toiletry items. This requirement shall not prohibit the availability of cleaning or sanitizing agents in dishwashing or laundry work areas.

(c) Each bulk or original container of a poisonous or toxic material shall bear a legible manufacturer's label.

All poisonous or toxic materials taken from a bulk container or an original container and put into another container shall be clearly identified with the common name of the material.

(d) Each poisonous or toxic material shall be used according to the manufacturer's directions. Additional safety requirements regarding the safe use of poisonous or toxic materials may be established by the regulatory authority upon discovery of the unsafe use of these materials.

(e) Each restricted-use pesticide shall be applied only by a certified applicator or a person under the direct supervision of a certified applicator and in accordance with all applicable statutes and regulations.

This regulation shall be effective on and after February 5, 2008. (Authorized by and imple-

menting K.S.A. 36-506; effective, T-28-10-8-07, Oct. 8, 2007; effective Feb. 5, 2008.)

28-36-81. Public indoor areas. Each licensee shall ensure that all of the following requirements are met: (a) All indoor public areas shall be kept clean and free of debris.

(b) (1) All equipment, appliances, and fixtures shall be maintained in good repair. All equipment, appliances, and fixtures that require repair or maintenance either shall be removed for repair or maintenance or shall be designated as damaged or under repair by using signs, placards, cones, hazard tape, or other visual means to alert guests of any possible hazard.

(2) All unused or damaged equipment, appliances, and fixtures shall be removed.

(c) (1) All floors and floor coverings in public areas, service areas, hallways, walkways, and stairs shall be kept clean by effective means suitable to the finish.

(2) All floor coverings shall be maintained in good repair. All floor maintenance, repair, and replacement shall be done in a manner that prevents slipping or tripping hazards to guests.

(d) All furniture and items of décor shall be in good repair and kept clean by effective means suitable to the material and finish.

(e) All stairs, landings, hallways, and other walkways shall be kept free of debris and in good repair and shall meet the following requirements:

(1) The storage of items shall be prohibited.

(2) A minimum illumination of 10 foot-candles shall be required.

(f) Each fitness room, bathhouse, and spa shall meet the following requirements:

(1) Each area shall be cleaned and sanitized daily or more frequently, if necessary to maintain cleanliness.

(2) All floors shall be maintained in good repair and have a slip-resistant finish or covering that prevents slipping when wet.

(3) All equipment and fixtures that come into contact with guests, including benches, tables, stools, chairs, tanning beds, and fitness equipment, shall be constructed with a covering of a nonabsorbent material suitable for the use of the equipment or fixture. The following requirements shall be met:

(A) All surfaces that come into contact with guests shall be cleaned and sanitized daily or more frequently, if necessary to maintain cleanliness.

(B) Cleaning or sanitizing solutions shall be

made available for guest use and shall be kept in clearly labeled bottles.

(C) All showers shall be cleaned and sanitized daily or more frequently, if necessary to maintain cleanliness.

(4) (A) Towels, including bath towels, hand towels, and paper towels, shall be provided in the area and made available upon guest request.

(B) Each cloth towel shall be laundered before being provided to a guest.

(C) A receptacle for wet or soiled towels shall be provided for guest use in the area. The receptacle shall be emptied at least once daily.

(5) All equipment, fixtures, and recreational items provided for guest use shall be maintained in good repair.

(6) Protective eye equipment shall be provided if tanning equipment is provided for guest use.

This regulation shall be effective on and after February 5, 2008. (Authorized by and implementing K.S.A. 36-506; effective, T-28-10-8-07, Oct. 8, 2007; effective Feb. 5, 2008.)

28-36-82. Ice and ice dispensing. Each licensee shall ensure that all of the following requirements are met: (a) (1) If ice is provided in a public area to guests or the general public, the ice shall be provided only through automatic, self-service dispensing machines that are constructed to prevent the direct access to bulk ice storage compartments by guests or the general public.

(2) Ice machines other than the type specified in paragraph (a)(1), including bin-type ice machines that allow direct access to the bulk ice storage compartments, shall not be accessible to guests or the general public. Any lodging employee may provide containers of ice to guests or the general public from this type of ice machine, from an icemaker, or from prepackaged ice.

(b) (1) Only ice that has been made from potable water and handled in a sanitary manner shall be provided by a lodging establishment. All ice shall be free of visible contaminants.

(2) All ice that is not made on the premises of the lodging establishment shall be obtained from a commercial source and shall be protected from contamination during transportation and storage.

(c) Each ice machine shall meet the following requirements:

(1) Be constructed of sanitary, durable, corrosion-resistant material and be easily cleanable;

(2) be constructed, located, installed, and operated to prevent contamination of the ice;

(3) be kept clean, free of any mold, rust, debris, or other contaminants, and maintained in good repair; and

(4) be drained through an air gap.

(d) (1) Each ice container or ice bucket shall meet the following requirements:

(A) Be made of smooth, nonabsorbent, impervious, food-grade materials and be easily cleaned;

(B) be kept clean and stored in a sanitary manner;

(C) be cleaned and sanitized before each new guest; and

(D) be provided with a sanitary, single-service use, food-grade liner that is changed daily.

(2) All canvas or wax-coated buckets or containers shall be prohibited.

(3) No ice container or ice bucket shall be located within the room housing the toilet.

(e) Each icemaker located in a guest room shall be kept clean and sanitary.

(1) No individual ice cube trays shall be used.

(2) All ice shall be removed from the icemaker's storage bin before each new guest.

This regulation shall be effective on and after February 5, 2008. (Authorized by and implementing K.S.A. 36-506; effective, T-28-10-8-07, Oct. 8, 2007; effective Feb. 5, 2008.)

28-36-83. Exterior premises. Each licensee shall ensure that all of the following requirements are met: (a) Exterior areas and surfaces.

(1) All exterior areas and surfaces, including alleys and driveways, shall be kept clean, free of debris, and in good repair.

(2) Each walking, driving, and parking surface shall be graded or maintained to prevent the pooling of water.

(3) All lawns and landscaping shall be mowed or pruned as needed to promote guest safety.

(4) All parking areas and walkways shall be illuminated for guest safety and shall be kept free of debris.

(5) All unused or discarded equipment and materials shall be removed from the premises, except when placed in a designated storage area.

(6)(A) All exterior balconies, landings, porches, decks, stairways, and ramps shall be kept in good repair and free of debris and shall be illuminated for guest safety.

(B) Storage on stairs, landings, and ramps shall be prohibited.

(C) All guards and railings shall be attached securely and shall be kept in good repair.

(D) All ramps shall have a slip-resistant surface.

(E) All exterior stairways, ramps, landings, and walkways shall be kept free of ice and snow.

(b) Outside playgrounds and recreational areas.

(1) All equipment shall be kept clean and in good repair at all times. All protruding bolts, screws, and nails and all sharp edges shall be removed or covered.

(2) The ground cover under children's play equipment shall be a soft surface, including turf, rubber chips, bark mulch, clean sand, or any other surface approved by the regulatory authority.

(3) Unused equipment shall be stored in a designated area.

(4) If the area is open for nighttime use, lighting shall be provided for guest safety.

(5) The area shall be kept clean and free of debris.

(6) If fencing is provided, the fencing shall be kept in good repair.

(c) Refuse containers.

(1) The area where refuse containers are located shall be kept free of debris and cleaned as necessary to prevent the attraction and harborage of insects, rodents, and other pests and to minimize odors.

(2) Containers of adequate capacity or number shall be available to store all refuse that accumulates between refuse pickups. All refuse containers shall be emptied at least once each week or more frequently, if necessary to meet the requirements of these regulations. All rotten waste shall be removed daily.

(3) All refuse container lids shall be closed. All refuse containers shall be kept on a solid surface. Solid surfaces shall include concrete, asphalt, and any other hard surface approved by the regulatory authority.

(d) Outdoor vector control.

(1) The premises shall be free of any harborage conditions that can lead to or encourage infestations of rodents, insects, and any other pests.

(2) Control measures shall be taken to protect against the entrance of rodents, insects, and any other pests into the lodging establishment. All buildings shall be verminproofed and kept in a verminproof condition.

All doors leading outside shall be tightfitting to eliminate entrance points for rodents, insects, and any other pests. All windows and doors that can be opened for ventilation shall have screening ma-

terial that is at least 16 mesh to the inch and shall be tightfitting and kept in good repair.

(3) Identified infestation problems shall be treated by a licensed pest control operator (PCO).

(4) All control measures, both mechanical and chemical, shall be used in accordance with each manufacturer's recommendations.

(e) Exterior storage.

(1) A storage area shall be provided for maintenance and recreational equipment, machinery, and any other maintenance items.

(2) Only those items necessary for the operation and maintenance of the lodging establishment shall be kept in a storage area.

(3) All poisonous and toxic materials shall be stored as specified in K.A.R. 28-36-80.

(4) Each storage area shall be kept free of debris, filth, and any harborage conditions.

(5) All articles in need of repair may be stored on a short-term basis, which shall not exceed six months. All articles that are not repaired within six months shall be discarded or moved to an off-site storage facility.

(f) Outdoor space for pets. All pets shall be kept on a leash or controlled in a manner that prevents the pets from running freely about the premises.

This regulation shall be effective on and after February 5, 2008. (Authorized by and implementing K.S.A. 36-506; effective, T-28-10-8-07, Oct. 8, 2007; effective Feb. 5, 2008.)

28-36-84. Swimming pools, RWFs, and hot tubs. (a) General requirements. Each licensee shall ensure that all swimming pools, RWFs, and hot tubs are kept sanitary and in good repair.

(1) Each swimming pool, RWF, and hot tub shall meet the requirements in these regulations, unless local ordinances pertaining to planning and design, lifesaving and safety equipment, water quality, and sanitation exist and these ordinances are as restrictive or more restrictive than these regulations.

(2) Each licensee shall maintain records of each inspection conducted by a local regulatory agency for at least one year. The inspection records shall be made available for review by the regulatory authority, upon request.

(b) Design and safeguards.

(1) Each plan for a new swimming pool or RWF and for a swimming pool or RWF undergoing major renovation, including installation of a diving board, slide, or other similar recreational devices,

shall be designed by a licensed engineer, architect, or other qualified professional and shall be submitted to the regulatory authority before the start of construction. Submission of documentation of plan approval by the local regulatory agency shall meet the requirements of this paragraph.

(2) Each grate over a main drain in each swimming pool or RWF shall be intact, firmly affixed at all times, and designed to prevent swimmer entanglement, entrapment, or injury. Other methods to prevent swimmer entanglement, entrapment, or injury may include multiple main drains, antivortex drain covers, or any similar device approved by the regulatory authority.

(3) The depth of water in each swimming pool or RWF shall be plainly marked with at least four-inch high numbers of a color that contrasts with the color of the pool decking or vertical pool wall.

(A) Water depth markings for an inground swimming pool shall be clearly marked on the edge of the deck and visible at all times. In addition, water depth markings may be placed above the water surface on the vertical pool walls and shall be visible at all times.

(B) Water depth markings for each above-ground swimming pool or RWF shall be on the edge of the deck and shall be visible to persons entering the swimming pool. If water depth markings cannot be placed on the edge of the deck, another means shall be used so that the water depth is visible to persons entering the swimming pool.

(C) The water depth markings in each swimming pool or RWF shall be located in the following areas:

(i) At the maximum and minimum depths. Intermediate increments of depth may be used in addition to the required maximum and minimum depths; and

(ii) the transition point between the shallow end, which shall be five feet or less, and the deep end, which shall be more than five feet. This transition point shall be marked by a line on the floor and the walls of the swimming pool or RWF or by a safety rope equipped with buoys.

(4) Each lighting and electrical system for a swimming pool, RWF, or hot tub shall be kept in good repair at all times. The following requirements shall be met:

(A) Artificial lighting shall be provided at each swimming pool, RWF, or hot tub if used at night and for each indoor swimming pool, RWF, or hot

tub. The lighting shall illuminate all portions of each swimming pool, RWF, or hot tub.

(B) All artificial lighting located in the water shall be designed and maintained to prevent electrical shock hazards to guests.

(5) Each outdoor swimming pool and RWF shall be protected by a fence, wall, building, or other enclosure that is at least four feet in height.

(A) Each enclosure shall be made of durable material and kept in good repair.

(B) Each gate shall have self-closing and self-latching mechanisms. The self-latching mechanism shall be installed at least four feet from the bottom of the gate.

(C) A hedge shall not be an acceptable protective enclosure.

(6) Each door leading into an indoor or enclosed swimming pool or RWF area shall have self-closing and self-latching mechanisms. The self-closing mechanism shall be at least four feet from the bottom of the door.

(c) Lifesaving and safety equipment.

(1) Each swimming pool or RWF shall have lifesaving equipment, consisting of at least one U.S. coast guard-approved flotation device that can be thrown into the water and at least one reaching device.

(A) The flotation device shall be attached to a rope that is at least as long as one and one-half times the maximum width of the swimming pool or RWF. If a lifeguard is on duty, life-saving rescue equipment, including rescue tubes, may also be used.

(B) The reaching device shall be a life pole or a shepherd's crook-type of pole, with a minimum length of 12 feet.

(C) Each lifesaving device shall be located in a conspicuous place and shall be accessible. The lifeguard personnel shall keep their rescue equipment close for immediate use.

(D) Each lifesaving device shall be kept in good repair.

(2) A first-aid kit shall be accessible to the lodging employees.

(3) No glass containers shall be permitted in the swimming pool, RWF, or hot tub area.

(4) Each swimming pool, RWF, and hot tub and each deck shall be kept clean of sediment, floating debris, visible dirt, mold and algae and shall be maintained free of cracks, peeling paint, and tripping hazards.

(5) Each swimming pool, RWF, and hot tub shall be refinished or relined if the bottom or wall

surfaces cannot be maintained in a safe and sanitary condition.

(6) If handrails are not present, all steps leading into the swimming pool or RWF shall be marked in a color contrasting with the color of the interior of the swimming pool and RWF so that the steps are visible from the swimming pool or RWF deck. If step markings are not used when these regulations become effective, step markings shall be installed the first time the swimming pool or RWF is drained on or before January 1, 2010.

(7) All steps, ladders, and stairs shall be easily cleanable, in good repair, and equipped with non-slip treads. Handrails and ladders, if present, shall be provided with a handhold and securely attached.

(8) The rules of operation and safety signs for each swimming pool, RWF, and hot tub shall be posted in a conspicuous place at the swimming pool, RWF, or hot tub. Each swimming pool and RWF without a lifeguard shall have posted the following sign: "Warning — No Lifeguard On Duty." The sign shall be legible, with letters at least four inches in height.

(9) If chlorinating equipment is located indoors, the chlorinating equipment shall be housed in a separate room, which shall be vented to the outside or to another room that is vented to the outside. If chlorinating equipment is located outdoors and within an enclosed structure, the structure shall be vented to the outside.

(d) Water quality and sanitation. Each licensee shall ensure that all of the following requirements are met:

(1) Each swimming pool, RWF, and hot tub shall be maintained to provide for continuous disinfection of the water with a chemical process. This process shall use a disinfectant that leaves a measurable residual in the water.

(A) If chlorine or bromine is used to disinfect the water of any swimming pool or RWF, the water shall have a disinfectant residual level of at least 1.0 part per million (ppm) and not more than 5.0 ppm.

(B) If chlorine or bromine is used to disinfect the water of any hot tub, the water shall have a disinfectant residual level of at least 2.0 ppm and not more than 5.0 ppm.

(C) Each means of disinfection other than those specified in paragraphs (d)(1)(A) and (B) shall be used only if the licensee has demonstrated that the alternate means provides a level of disinfection

tion equivalent to that resulting from the residual level specified in paragraph (d)(1)(A) or (B).

(2) The pH of the water in each swimming pool, RWF, and hot tub shall be maintained at not less than 7.0 and not more than 8.0.

(3) Each licensee shall use a chemical test kit or a testing device approved by the regulatory authority. Each testing kit or device shall be appropriate for the disinfecting chemical used and capable of accurately measuring disinfectant residual levels of 0.5 ppm to 20.0 ppm. In addition, a chemical test kit or testing device for measuring the pH of the water shall be used and capable of accurately measuring the pH of water in 0.2 increments.

(4) The water in each swimming pool, RWF, and hot tub shall have sufficient clarity at all times so that one of the following conditions is met:

(A) A black disc with a diameter of six inches is clearly visible in the deepest portion of the swimming pool or RWF.

(B) The bottom drain at the deepest point of the swimming pool or RWF is clearly visible, and the bottom of the hot tub is clearly visible.

(5) The water in each swimming pool, RWF, and hot tub shall be free of scum and floating debris. The bottom and walls shall be free of dirt, algae, and any other foreign material.

(6) No chemical shall be added manually and directly to the water of any swimming pool, RWF, or hot tub while any individual is present in the water.

(7) The temperature of the water in each hot tub shall not exceed 104 degrees Fahrenheit.

(A) Each hot tub shall be operated in accordance with the manufacturer's specifications.

(B) Each hot tub shall have a thermometer or other device to accurately record the water temperature within plus or minus two degrees.

(e) Fecal accident in a swimming pool and RWF. If a fecal accident occurs in a swimming pool or RWF, the following requirements shall be met:

(1) In response to any accident involving formed feces, the following requirements shall be met:

(A) Direct the guests to leave the swimming pool or the RWF, and do not allow any individuals to reenter until the decontamination process has been completed. The closure times can vary since the decontamination process takes from 30 to 60 minutes;

(B) remove as much fecal material as possible

using a net or scoop, and dispose of the material in a sanitary manner. Sanitize the net or scoop;

(C) raise the disinfectant level to 2.0 ppm and ensure that the water pH is between 7.2 and 7.8; and

(D) return the disinfectant level to the operating range specified in paragraph (d)(1)(A) before the swimming pool or RWF is reopened to guests.

(2) In response to any accident involving diarrhea, the following requirements shall be met:

(A) Direct guests to leave the swimming pool or the RWF, and do not allow any individuals to reenter until the decontamination process has been completed;

(B) remove as much fecal material as possible using a scoop, and dispose of the material in a sanitary manner. Sanitize the scoop. Vacuuming the fecal material shall be prohibited;

(C) raise the disinfectant level to 20.0 ppm and maintain a water pH of at least 7.2 but not more than 7.8. This level of concentration shall be maintained at least eight hours to ensure inactivation of *Cryptosporidium*. A lower disinfectant level and a longer inactivation time may be used according to the following table:

Cryptosporidium inactivation for diarrheal accident

Disinfectant levels (ppm)	Disinfection time
1.0	6.5 days
10.0	16 hours
20.0	8 hours

(D) ensure that the filtration system is operating and maintaining the required disinfectant levels during the disinfection process. Backwash the filter. Do not return the backwashed water through the filter. Replace the filter medium, if necessary; and

(E) return the disinfectant level to the operating range specified in paragraph (d)(1)(A) before the swimming pool or RWF is reopened to guests.

(f) Vomiting accident in a swimming pool or RWF. If a vomiting accident occurs in a swimming pool or RWF, the procedures in paragraph (e)(1) shall be followed.

(g) Body fluid spills at a swimming pool or RWF. All body fluid spills that occur on swimming pool or RWF equipment or hard surfaces, including decking, shall be cleaned and chemically san-

itized. Disposable gloves shall be available for employees' use during cleanup. The following cleanup method shall be used:

(1) Wipe up the spill using absorbent, disposable material. Paper towels may be used;

(2) use a bleach solution by combining one part bleach and 10 parts water. Pour the bleach solution onto the contaminated surface, leave the solution on the surface for at least 10 minutes, and rinse the surface with clean water;

(3) disinfect all nondisposable cleaning materials, including mops and scrub brushes, and allow to air-dry; and

(4) require each employee assisting with the cleanup to wash that employee's hands with warm water and soap after the cleanup is completed.

(h) Fecal or vomiting accident in a hot tub. If a fecal accident or vomiting occurs in a hot tub, all of the following requirements shall be met:

(1) All guests shall be required to leave the hot tub, and the water shall be completely drained.

(2) The hot tub shall be disinfected according to the manufacturer's specifications.

(3) The filtering system shall be disinfected or the filter medium shall be replaced with a clean filter medium before refilling the hot tub with clean water.

(i) Operation and maintenance of a swimming pool, RWF, or hot tub. Each licensee shall ensure that all of the following requirements for each swimming pool, RWF, and hot tub are met:

(1) Daily operational logs shall be maintained for at least one year at the lodging establishment and made available to the regulatory authority, upon request. These logs shall include the date and time the information was collected and the name or initials of the person who collected the information. These logs shall also record the following information:

(A) The disinfectant residuals shall be recorded at least once daily when the swimming pool, RWF, or hot tub is available for guest use or more often, if necessary to maintain the water quality as specified in subsection (d).

(B) The pH test shall be recorded at least once daily when the swimming pool, RWF, or hot tub is available for guest use or more often, if necessary to maintain the water quality as specified in subsection (d).

(C) The temperature reading of each hot tub shall be recorded at least once daily when the hot tub is available for guest use.

(2) Each fecal and vomiting accident log shall

include the time and date of the accident and the disinfection measures taken.

(3) Each indoor swimming pool area and chemical storage room shall be either vented directly to the exterior or vented to a room that is vented directly to the exterior.

(4) All chemicals applied to a swimming pool, RWF, or hot tub shall be used, handled, stored, and labeled in accordance with the manufacturer's specifications.

(5) All recreational equipment shall be kept sanitary. Recreational equipment shall include slides, diving boards, play equipment, water sports equipment, and accessory items available to guests, including floats, tubes, air mattresses, and pads for water slides.

(6) A cleaning system shall be used to remove dirt, algae, and any other foreign material from the bottom of the swimming pool or RWF.

(7) All surface skimmers, strainer baskets, and perimeter overflow systems shall be kept clean and in good repair.

(8) The water in each swimming pool and each RWF shall be maintained at the manufacturer's recommended level so that the water will flow into each skimmer and strainer.

(9) The recirculation system serving each swimming pool, RWF, and hot tub shall operate continuously or in accordance with the manufacturer's specifications. The filtration and recirculation systems shall be maintained in accordance with the manufacturer's specifications.

This regulation shall be effective on and after February 5, 2008. (Authorized by and implementing K.S.A. 36-506; effective, T-28-10-8-07, Oct. 8, 2007; effective Feb. 5, 2008.)

28-36-85. Water supply systems. Each licensee shall ensure that all of the following requirements are met:

(a) Sufficient potable water to meet the needs of the lodging establishment shall be provided from a source constructed and operated pursuant to K.S.A. 65-161 et seq., and amendments thereto.

(b) No water supply system deemed unsafe by the regulatory authority shall be used as a potable water supply.

(c) (1) Each nonpublic water supply system shall be constructed, maintained, and operated as specified in K.S.A. 65-161 et seq., and amendments thereto.

(2) All water from a nonpublic water supply sys-

tem shall meet the state drinking water quality standards specified in K.S.A. 65-161 et seq., and amendments thereto. The most recent sample report for the nonpublic water supply system used by the lodging establishment shall be retained for at least 12 months at the lodging establishment and shall be made available to the regulatory authority upon request.

(d) During any period when a boil water order is in effect, including a precautionary boil water notice or advisory issued by the regulatory authority on a public or nonpublic water supply, the licensee shall meet the following requirements until the problem has been corrected:

(1) Notify each guest, verbally upon check-in and by written notice placed in each rented guest room, that the plumbed water is not potable and only potable water should be used for drinking and for brushing teeth;

(2) discard any ice that could have been made from or exposed to contaminated water; and

(3) obtain a temporary, alternate supply of potable water by using one of the following:

(A) A supply of commercially bottled drinking water;

(B) one or more closed, portable, bulk water containers;

(C) an enclosed vehicular water tank;

(D) an on-premises water storage tank; or

(E) any other alternative water source if approved by the regulatory authority.

This regulation shall be effective on and after February 5, 2008. (Authorized by and implementing K.S.A. 36-506; effective, T-28-10-8-07, Oct. 8, 2007; effective Feb. 5, 2008.)

28-36-86. Sewage systems. Each licensee shall ensure that all of the following requirements are met:

(a) All sewage shall be disposed of through an approved facility, including one of the following:

(1) A public sewage treatment plant; or

(2) an individual sewage disposal system that is constructed, maintained, and operated according to K.S.A. 65-161 et seq., and amendments thereto, and meets all applicable sanitation requirements.

(b) A temporary sewage disposal facility shall be allowed only as approved by the regulatory authority in response to a disaster.

(c) All condensate drainage, rainwater, and other nonsewage liquids shall be drained from the

point of discharge to disposal pursuant to K.S.A. 65-161 et seq., and amendments thereto.

This regulation shall be effective on and after February 5, 2008. (Authorized by and implementing K.S.A. 36-506; effective, T-28-10-8-07, Oct. 8, 2007; effective Feb. 5, 2008.)

28-36-87. Electrical systems. (a) Each licensee shall ensure that the electrical wiring is installed and maintained in accordance with all applicable local electrical codes. In the absence of local electrical codes, the electrical wiring shall be installed and maintained by a licensed electrician. Each licensee shall ensure that all of the following requirements are met:

(1) (A) Each newly constructed lodging establishment shall have a ground-fault circuit interrupter in each electrical outlet located within five feet of any water source, including a swimming pool and hot tub.

(B) Each existing lodging establishment in which major renovation or rewiring has occurred shall be required to have a ground-fault circuit interrupter in each electrical outlet located within five feet of any water source, including a swimming pool and hot tub.

(C) Each licensee shall ensure that the lodging establishment has a ground-fault circuit interrupter in each electrical outlet located within five feet of any water source, including a swimming pool and hot tub, on or before January 1, 2010.

(2) Each electrical switch and each outlet shall be covered by a faceplate. Each junction box shall have a junction box cover.

(3) All circuit breaker boxes, fuse boxes, and electrical panels shall be protected from physical damage and kept in good condition. All fuses and circuits shall be labeled to identify the circuit location.

The storage of any item that obstructs access to any circuit box shall be prohibited.

(4) All wire splices shall be located in covered junction boxes.

(5) Bare or frayed wiring shall be prohibited.

(6) All three-prong outlets shall be grounded. Each appliance shall be grounded in accordance with the manufacturer's specifications.

(b) All emergency lighting shall be kept in working condition.

(c)(1) The permanent use of extension cords in guest rooms shall be prohibited.

Individual branch circuits, including multiple-plug outlet strips that contain fuse breakers and

multiple-plug outlet adapters that do not exceed the amperage for which the outlets are rated, shall be permitted.

(2) The licensee of each lodging establishment shall be required to meet the requirements of this subsection on or before January 1, 2010.

(d) The temporary use of extension cords shall be allowed for housekeeping and maintenance purposes if the extension cords are rated for industrial use.

(e) The wattage of light bulbs shall not exceed the wattage rating of the corresponding light fixtures.

Empty light sockets shall be prohibited.

This regulation shall be effective on and after February 5, 2008. (Authorized by and implementing K.S.A. 36-506; effective, T-28-10-8-07, Oct. 8, 2007; effective Feb. 5, 2008.)

28-36-88. Plumbing systems. (a) Each licensee shall ensure that all plumbing is installed and maintained in accordance with all applicable local plumbing codes. In the absence of local plumbing codes, all plumbing shall be installed and maintained by a licensed plumber.

(b) Each licensee shall ensure that all of the following requirements are met:

(1) Potable water under pressure shall be available at all times at each fixture designed to provide water. Hot water shall be provided to each fixture designed to use hot water.

(2) Each toilet room, bathing facility, and laundry area shall be provided with ventilation to minimize condensation and to prevent mold, algae, and odors.

Each newly constructed lodging establishment and each lodging establishment undergoing major renovation shall be required to have mechanical ventilation in each toilet room, bathing facility, and laundry area.

(3) Each fixture drain shall be plumbed with a P-trap.

(4) All openings for the passage of plumbing shall be verminproof.

(5) No fitting, connection, device, or method of installation of plumbing shall obstruct or retard the flow of water, wastes, sewage, or air in the drainage or venting system.

(c) All backflow devices shall meet the design specifications for their intended use. All potable water supplies shall be protected from sources of potential contamination. Each licensee shall en-

sure that all of the following requirements are met:

(1) If provided, each boiler unit, fire sprinkler system with chemical additives, lawn sprinkler with a means for injection of pesticides, herbicides, or other chemicals, and pumped or pressurized cooling or heating system shall be protected by a reduced-pressure-principle backflow prevention assembly.

(A) The backflow prevention assembly shall be tested at least annually.

(B) Documentation of each test shall be maintained at the lodging establishment for at least one year and shall be made available to the regulatory authority upon request.

(2) If provided, each fire sprinkler system not using chemical additives and lawn sprinkler system without a means for injection of pesticides, herbicides, or other chemicals shall be protected by a double-check valve assembly.

(A) The double-check valve assembly shall be tested at least annually.

(B) Documentation of each test shall be maintained at the lodging establishment for at least one year and shall be made available to the regulatory authority upon request.

(3) If provided, each threaded faucet to which a hose is connected, flush valve, and any similar device shall be protected by a vacuum breaker. Each commercial dishwasher and each commercial laundry machine shall be protected by either a vacuum breaker or an air gap.

(4) If provided, each relief valve discharge line from a water heater, water-holding tank, cooling tower, or water softener, each discharge line from a commercial laundry machine, and each condensation line shall be protected by an air gap.

(5) Each swimming pool water supply line shall be protected by either an air gap or a double-check valve assembly.

(6) Fire sprinklers plumbed into a waterline over gas water heaters or furnaces, or both, shall not be required to have a backflow device unless required by local ordinance.

This regulation shall be effective on and after February 5, 2008. (Authorized by and implementing K.S.A. 36-506; effective, T-28-10-8-07, Oct. 8, 2007; effective Feb. 5, 2008.)

28-36-89. Heating, ventilation, and air-conditioning (HVAC) systems. (a) Each licensee shall ensure that each guest room has heat-

ing, ventilation, and related heating and ventilation equipment.

(1) All equipment shall be installed according to the manufacturer's directions and shall be kept in operating condition.

(2) A means to control the temperature in the guest room shall be provided in each guest room that is furnished with a separate heating or air-conditioning unit.

(3) If the guest room has air-conditioning, the air-conditioning system shall meet the requirements specified in paragraphs (a)(1) and (2).

(b) Unvented fuel-fired heaters, unvented fireplaces, and similar devices and portable electrical space heaters shall be prohibited from use in all areas of the lodging establishment, unless designed by the manufacturer for commercial use and approved by the regulatory authority. The following conditions shall be met:

(1) The unvented fuel-fired heater, unvented fireplace, or similar device or the portable electrical space heater is not the primary source of heat.

(2) The unvented fuel-fired heater, unvented fireplace, or similar device or the portable electric space heater is not used in a guest room.

(c) All gas and electric heating equipment shall be equipped with thermostatic controls.

(d) All gas water heaters, gas furnaces, and other gas heating appliances shall be vented to the outside.

(e) A gas shutoff valve shall be located next to each gas appliance, gas furnace, and gas water heater.

(f) Each furnace and each air-conditioning unit shall be equipped with an electrical fuse breaker to protect the unit from electrical overload.

(g) Each furnace room or room containing a gas water heater or any other fuel-fired appliance shall be provided with adequate air for circulation.

(h) Each filter shall be changed according to the manufacturer's specifications.

This regulation shall be effective on and after February 5, 2008. (Authorized by and implementing K.S.A. 36-506; effective, T-28-10-8-07, Oct. 8, 2007; effective Feb. 5, 2008.)

28-36-101. Definitions. Chapter one of the 2005 "food code," published by the U.S. department of health and human services, is adopted by reference, subject to the following additions, deletions, and substitutions:

(a) (1) Wherever the word "PERMIT" appears

in this chapter, the word shall be deleted and shall be replaced by "LICENSE," and wherever the phrase "PERMIT HOLDER" appears in this chapter, the phrase shall be deleted and shall be replaced by the word "LICENSEE."

(2) Wherever the parenthetical phrase "(Time/Temperature Control for Safety Food)" appears in this chapter, the phrase shall be deleted.

(3) In subpart 1-201.10(B) under "additive," the definition of "food additive" shall be deleted and shall be replaced by the definition in K.S.A. 65-656, and amendments thereto.

(4) In subpart 1-201.10(B) under "additive," the definition of "color additive" shall be deleted and shall be replaced by the definition in K.S.A. 65-656, and amendments thereto.

(5) In subpart 1-201.10(B), the definition of "adulterated" shall be deleted and shall be replaced by the definition of "food deemed adulterated" in K.S.A. 65-664, and amendments thereto.

(6) In the definition of "a_w," the symbol "A_w" at the end of the definition shall be changed to read "a_w."

(7) The following definition of "commissary" shall be added after the definition of "comminuted":

"Commissary" means a catering establishment, restaurant, or similar place that is necessary for the safe operation of a MOBILE FOOD ESTABLISHMENT or PUSH CART in which food, containers, or supplies are kept, handled, prepared, packaged, or stored.

(8) In subpart 1-201.10(B) in the definition of "disclosure," the words "for consumers" shall be added after the word "identifies."

(9) (A) In subpart 1-201.10(B) under "food establishment" in paragraph (2)(a), the word "and" shall be deleted.

(B) Under "food establishment" in paragraph (2)(b), the period after "FOOD" shall be deleted and shall be replaced by a semicolon.

(C) Under "food establishment" in paragraph (2), the following paragraphs shall be added after paragraph (b):

"(c) A 'food service establishment' as defined in K.S.A. 36-501, and amendments thereto;

"(d) A 'food vending machine' defined in K.S.A. 36-501, and amendments thereto; and

"(e) A 'retail food store' means any establishment or section of an establishment where food and food products are offered to the consumer and intended for off-premises consumption. The term includes delicatessens that offer prepared

food in bulk quantities only. The term does not include establishments which handle only pre-packaged non-potentially hazardous foods, roadside markets that offer only fresh fruits and fresh vegetables for sale, food service establishments, or food and beverage vending machines.”

(D) Under “food establishment” in paragraph (3) (f), insert the word “only” after the words “offers FOOD,” replace the number “6” with “4,” and delete the words “the number of guests served does not exceed 18.”

(10) In subpart 1-201.10(B) in paragraph (1) of the definition of “food processing plant,” the words “and does not provide food directly to the consumer” shall be added after the words “FOOD ESTABLISHMENTS.”

(11) The following definition of “mobile food establishment” shall be added after the definition of “mg/L”:

“Mobile food establishment” means a self-contained FOOD ESTABLISHMENT that is mounted on axles and wheels, is designed to be readily moveable, and remains at one physical address for not more than 17 consecutive days.

(12) In subpart 1-201.10(B), the definition of “person” shall be deleted and shall be replaced by the definition of “person” in K.S.A. 36-501, and amendments thereto.

(13) The following definition of “pushcart” shall be added after the definition of “public water supply system”:

“Pushcart” means a manually propelled vehicle limited to serving non-potentially hazardous foods or POTENTIALLY HAZARDOUS FOODS that require only limited preparation or prepackaged food maintained at proper temperatures.

(14) In subpart 1-201.10(B), the definition of “person in charge” shall be deleted and shall be replaced by the following: “Person in charge” means at the time of inspection, any individual or employee present in a food establishment who is responsible for the operation. If no designated individual or employee is the person in charge, then any employee present is the person in charge.”

(15) In subpart 1-201.10(B), in the definition of “potentially hazardous food,” the following changes shall be made:

(A) In paragraph (1), the parenthetical abbreviation “(TCS)” shall be deleted.

(B) In paragraph (2), the designation of paragraph (a) shall be deleted, and this paragraph shall become part of paragraph (2). The words “raw cut

tomatoes” shall be added after the words “cut melons.”

(C) Paragraph (b) shall be deleted, including tables A and B.

(D) The text in paragraph (3)(c) shall be deleted and replaced with the following: “A FOOD with an a_w value of 0.85 or less;”.

(E) The text in paragraph (d) and all of paragraphs (d) (i), (ii), and (iii) shall be deleted and replaced with the following: “A FOOD with a pH level of 4.6 or below when measured at 24°C (75°F).”

(16) In subpart 1-201.10(B), the definition of “public water system” shall be deleted and shall be replaced by the definition of “public water supply system” in K.S.A. 65-162a, and amendments thereto.

(17) In subpart 1-201.10(B) under “ready-to-eat food” in paragraph (2) (b), the words “that are washed as specified under § 3-302.15” shall be deleted.

(18) In subpart 1-201.10(B), the definition of “refuse” shall be deleted and shall be replaced by the definition of “solid waste” as defined in K.S.A. 65-3402, and amendments thereto.

(19) In subpart 1-201.10(B) in the definition of “regulatory authority,” the word “local” and the words “or federal” shall be deleted.

(20) In subpart 1-201.10(B), the definition of “sewage” shall be deleted and shall be replaced by the definition in K.S.A. 65-164, and amendments thereto.

(21) In subpart 1-201.10(B), the definition of “vending machine” shall be deleted and shall be replaced by the definition of “food vending machine” in K.S.A. 36-501, and amendments thereto.

(22) In subpart 1-201.10 in the definition of “vending machine location,” the word “Food” shall be inserted before the word “Vending.”

(b) As used in this article, the superscript “^s” that follows the title of a section shall designate the requirements in that section as being of critical importance, unless otherwise specified within that section as follows:

(1) The superscript “^N” shall designate a requirement as being of noncritical importance.

(2) The superscript “^s” may designate a requirement as being of noncritical importance. The term “swing” is used to describe this type of requirement. (Authorized by and implementing K.S.A. 36-507; effective Aug. 13, 1999; amended Nov. 30, 2007.)

28-36-102. Management and personnel. Chapter two of the 2005 “food code,” published by the U.S. department of health and human services, is adopted by reference, with the following additions, deletions, and substitutions:

(a) Wherever the phrase “PERMIT HOLDER” appears in this chapter, the phrase shall be deleted and shall be replaced by the word “LICENSEE.”

(b) Wherever the parenthetical phrase “(TIME/TEMPERATURE CONTROL FOR SAFETY FOOD)” appears in this chapter, the phrase shall be deleted.

(c) (1) In the first sentence of subpart 2-102.11, the words “of foodborne illness” shall be added between the words “RISKS” and “inherent.”

(2) Subpart 2-102.11(A) shall be deleted.

(3) Subpart 2-102.11(B) shall be redesignated as “(A),” and the words “OR APPROVED” shall be inserted after “ACCREDITED.”

(4) (A) Subpart 2-102.11 (C) shall be redesignated as “(B).”

(B) In subpart 2-102.11(C)(8)(b), the word “Bare” shall be added before the word “Hand.”

(C) In subpart 2.102.11, paragraph (C)(9) shall be deleted and replaced by the following paragraph:

“Describing FOODS identified as MAJOR FOOD ALLERGENS that could cause an allergic reaction in a sensitive individual.”

(d) In subpart 2-102.20 at the end of the sentence, “(B)” shall be deleted and replaced by “(A).”

(e) In subpart 2-103.11(E), the word “UNADULTERED” shall be deleted and replaced by the word “unadulterated.”

(f) In subpart 2-201, the title “Responsibilities of Permit Holder, Person in Charge, Food Employees, and Conditional Employees” shall be deleted and replaced by the title “Responsibilities regarding diseases or medical conditions.”

(g) (1) In subpart 2-201.11(A)(4) and (A)(5), the word “CONFIRMED” shall be deleted and replaced by “FOODBORNE.”

(2) In subpart 2-201.11(C)(2), the word “as” between the words “serves” and “a” shall be deleted.

(h) (1) In subpart 2-201.13(I)(4)(c), the words “immune to” shall be deleted and replaced by the words “protected against.”

(2) In subpart 2-201.13(I) (4)(d) - (f), the number “30” shall be deleted and replaced by the number “50.”

(i) In subpart 2-301.12(B)(3), the phrase “10 to

15 seconds” shall be deleted and replaced by “20 seconds.” (Authorized by and implementing K.S.A. 36-507; effective Aug. 13, 1999; amended Nov. 30, 2007.)

28-36-103. Food. Chapter three of the 2005 “food code,” published by the U.S. department of health and human services, is adopted by reference, with the following additions, deletions, and substitutions:

(a) Wherever the phrase “PERMIT HOLDER” appears in this chapter, the phrase shall be deleted and shall be replaced by the word “LICENSEE.”

(b) Wherever the parenthetical phrase “(TIME/TEMPERATURE CONTROL FOR SAFETY FOOD)” appears in this chapter, the phrase shall be deleted.

(c) Subpart 3-301.11(D) shall be deleted.

(d) (1) Subpart 3-302.11 (A)(3) through (8) shall be deleted and replaced with the following:

“(3) Storing damaged, spoiled, or recalled FOOD being held in the FOOD ESTABLISHMENT as specified under § 6-404.11;

“(B) *FOOD can be protected from cross contamination by using one or more of the following methods:*

“(1) *Except as specified under Subparagraph 3-501.15 (B)(2) and in ¶ (C) of this section, storing the FOOD in packages, covered containers, or wrappings;*

“(2) *Cleaning HERMETICALLY SEALED CONTAINERS of FOOD of visible soil before opening;*

“(3) *Protecting FOOD containers that are received packaged together in a case or overwrap from cuts when the case or overwrap is opened; and*

“(4) *Separating fruits and vegetables, before they are washed as specified under § 3-302.15 from READY-TO-EAT FOOD.*”

(2) In subpart 3-302.11, the existing paragraph “(B)” shall be redesignated as “(C).”

(e) In subpart 3-305.13, “FOOD” shall be inserted before the word “VENDING.”

(f) In subpart 3-306.12(B), “FOOD” shall be inserted before the word “VENDING.”

(g) In subpart 3-403.11(A), (B), and (C), the words “before service” shall be added at the end of each paragraph.

(h) In subpart 3-501.16(A)(2)(b)(ii), the phrase “Within 5 years of the REGULATORY AUTHORITY’S adoption of this code” shall be de-

leted and shall be replaced by “on or before September 1, 2009.”

(i) In subpart 3-501.17(A)(2)(b), the words “Within 5 years of the REGULATORY AUTHORITY’S adoption of this code” shall be deleted and replaced by the words “On or before September 1, 2009.”

(j) In subpart 3-501.19, paragraphs (C) (1) through (5) shall be deleted and replaced with the following:

“Variance shall be obtained from the REGULATORY AUTHORITY as specified in § 3-502.11 as amended by K.A.R. 28-36-103(k).”

(k) In subpart 3-502.11, the text in paragraph (F) shall be deleted and replaced with the following:

“Using time as a public health control as specified under § 3-501.19.” (Authorized by and implementing K.S.A. 36-507; effective Aug. 13, 1999; amended Nov. 30, 2007.)

28-36-104. Equipment, utensils, and linens. Chapter four of the 2005 “food code,” published by the U.S. department of health and human services, is adopted by reference, with the following additions, deletions, and substitutions:

(a) Wherever the phrase “PERMIT HOLDER” appears in this chapter, the phrase shall be deleted and replaced by the word “LICENSEE.”

(b) (1) In subpart 4-204.14, the word “Food” shall be inserted before the word “Vending” in the title.

(2) In subpart 4-204.14, the word “FOOD” shall be inserted before the word “VENDING.”

(c) In subpart 4-204.16, the words “for human consumption” shall be added to the end of the sentence.

(d) (1) In subpart 4-204.19, the word “Food” shall be inserted before the word “Vending” in the title.

(2) In subpart 4-204.19, the word “FOOD” shall be inserted before the word “VENDING.”

(e) In subpart 4-204.110(B)(1), the words “as specified under § 8-103.11” shall be deleted and shall be replaced by “by the regulatory authority.”

(f) (1) In subpart 4-204.111, the word “Food” shall be inserted before the word “Vending” in the title.

(2) In subpart 4-204.111(B)(1) and (2), the word “FOOD” shall be inserted before the word “VENDING.”

(g) (1) In subpart 4-204.121, the word “Food”

shall be inserted before the word “Vending” in the title.

(2) In subpart 4-204.121(A) and (B), the word “FOOD” shall be inserted before the word “VENDING.”

(h) (1) In subpart 4-204.123, the word “Food” shall be inserted before the word “Vending” in the title.

(2) In subpart 4-204.123(A) and (B), the word “FOOD” shall be inserted before the word “VENDING.”

(i) In subpart 4-301.11, the symbol “*” shall be added after the word “Capacities.” in the title, and an “s” shall be added after the phrase “Chapter 3.”

(j) (1) In subpart 4-301.12, the title “Manual Warewashing, Sink Compartment Requirements.” shall be deleted and replaced with “Warewashing Equipment Requirements.”

(2) In subpart 4-301.12(A), the phrase “and ¶ (F)” shall be added before the words “of this section.”

(3) In subpart 4-301.12(D), the words “by the regulatory authority” shall be added after the word “APPROVED.”

(4) In subpart 4-301.12, the following paragraph shall be added after paragraph (E):

“(F) Manual warewashing sinks are not required if a mechanical warewashing machine is properly used, operated, and maintained and the machine is large enough for washing, rinsing and SANITIZING the largest EQUIPMENT and UTENSILS.”

(k) In subpart 4-603.16(A)(1), the word “or” shall be added at the end of the paragraph. (Authorized by and implementing K.S.A. 36-507; effective Aug. 13, 1999; amended Nov. 30, 2007.)

28-36-105. Water, plumbing, and waste. Chapter five of the 2005 “food code,” published by the U.S. department of health and human services, is adopted by reference, with the following additions, deletions, and substitutions:

(a) Wherever the word “SYSTEM” appears in this chapter, the word “SUPPLY” shall be inserted before the word “SYSTEM.”

(b) Wherever the phrase “according to LAW” appears in this chapter, the phrase shall be deleted and shall be replaced by “according to K.S.A. 65-161 et seq., and amendments thereto.”

(c) In subpart 5-103.12, the symbol “*” shall be added after the title “Pressure.”

(d) In subpart 5-202.12(C), the phrase “15 sec-

onds” shall be deleted and shall be replaced by the phrase “20 seconds.”

(e) (1) In subpart 5-203.11(A), the phrase “¶¶ (B) and (C)” shall be deleted and replaced by “¶ (B).”

(2) Subpart 5-203.11(C) shall be deleted.

(f) (1) In subpart 5-203.12, the words “and Urinals” in the title shall be deleted.

(2) In subpart 5-203.12, the two sentences shall be deleted and shall be replaced by the following: “Toilet facilities shall be installed according to applicable state and local requirements or as approved by the regulatory authority. Toilet facilities shall be conveniently located and shall be accessible to employees and patrons at all times, except that food service establishments that have no seating arrangements shall not be required to provide patron access to toilet facilities. Separate toilet facilities shall be provided for each sex in all new, newly constructed, or extensively remodeled facilities that offer food consumption arrangement for 20 or more persons on the premises.”

(g) In subpart 5-401.11(A), the words “with a minimum capacity of a 20-gallon tank” shall be added after the word “tank.”

(h) (1) In subpart 5-501.14, the word “Food” shall be inserted before the word “Vending Machines” in the title.

(2) In subpart 5-501.14, “FOOD” shall be inserted before the word “VENDING.” (Authorized by and implementing K.S.A. 36-507; effective Aug. 13, 1999; amended Nov. 30, 2007.)

28-36-106. Physical facilities. Chapter six of the 2005 “food code,” published by the U.S. department of health and human services, is adopted by reference with the following additions, deletions, and substitutions:

(a) Wherever the phrase “PERMIT HOLDER” appears in this chapter, the phrase shall be deleted and replaced by the word “LICENSEE.”

(b) (1) In subpart 6-202.15, the symbol “*” shall be added after the word “Protected.” in the title.

(2) In subpart 6-202.15, an “s” shall be added at the end of each these paragraphs: (A)(1), (2), and (3) and (D)(1), (2), and (3).

(c) In subpart 6-302.10, the words “and urinals” shall be deleted.

(d) (1) In subpart 6-501.111, the word “minimize” shall be deleted and replaced by the word “eliminate.”

(2) In subpart 6-501.111(A), (B), and (D), the “N” shall be deleted and replaced with “s.”

(e) In subpart 6-501.112, the symbol “*” shall be added after the word “Pests.” in the title.

(f) In subpart 6-501.115, paragraphs (B)(4)(a), (b), and (c) shall be deleted, and the designation for paragraph “(5)” shall be deleted and replaced by “(4).” (Authorized by and implementing K.S.A. 36-507; effective Aug. 13, 1999; amended Nov. 30, 2007.)

28-36-107. Poisonous or toxic materials. Chapter seven of the 2005 “food code,” published by the U.S. department of health and human services, is adopted by reference. (Authorized by and implementing K.S.A. 36-507; effective Aug. 13, 1999; amended Nov. 30, 2007.)

28-36-108. Compliance and enforcement. Chapter eight of the 2005 “food code,” published by the U.S. department of health and human services, is adopted by reference, with the following additions, deletions, and substitutions:

(a) Wherever the phrase “PERMIT HOLDER” appears in this chapter, the phrase shall be deleted and shall be replaced by the word “LICENSEE.”

(b) Wherever the parenthetical phrase “(TIME/TEMPERATURE CONTROL FOR SAFETY FOOD)” appears in this chapter, the phrase shall be deleted.

(c) Wherever the word “PERMIT” appears in this chapter, the word shall be deleted and replaced by the word “LICENSE.”

(d)(1) In subpart 8-201.11(C), the phrase “as specified under ¶ 8-302.14(C)” shall be deleted, and “; or” shall replace the period after “Code.”

(2) In subpart 8-201.11, the following new paragraph shall be added after paragraph (C):

“(D) Approval of plans by the regulatory authority shall not negate the liability of the applicant to comply with the requirements of these regulations.”

(e) Wherever the phrase “according to LAW” appears in this chapter, except in subpart 8-501.40, the phrase shall be deleted and shall be replaced by the phrase “according to K.S.A. 36-501 et seq. and amendments thereto.”

(f) Subparts 8-203.10, 8-302.11, 8-302.14, 8-303.20, and 8-401.10 shall be deleted.

(g) In subpart 8-302.13(A), the phrase “or a representative thereof” shall be added after the phrase “legal ownership.”

(h) In subpart 8-304.11(H), the phrase “and 5

years pass after the REGULATORY AUTHORITY adopts this Code” shall be deleted and shall be replaced by “or by September 1, 2009.”

(i) Wherever the words “PERMIT HOLDER’S” appears in this chapter, the words shall be deleted and shall be replaced by “LICENSEE’S.”

(j) In subpart 8-304.20, the paragraph shall end with a period added after the words “operation to another,” and the rest of the paragraph shall be deleted.

(k) In subpart 8-401.20, the phrase “Within the parameters specified in § 8-401.10” shall be deleted.

(l) In subpart 8-402.20, paragraph (A)(3) shall be deleted.

(m) Subpart 8-402.40 shall be deleted.

(n) In subpart 8-403.10(A), the phrase “and mailing” shall be deleted, and the phrase “as specified under paragraph 8-302.14(C)” shall be deleted.

(o) Subpart 8-501.10 shall be deleted.

(p) (1) In subpart 8-501.20(A), the words “to specific areas and tasks in a FOOD ESTABLISHMENT that present no risk of transmitting the disease” shall be added after the words “CONDITIONAL EMPLOYEE.”

(2) In subpart 8-501.20(B), the words “from a FOOD ESTABLISHMENT” shall be added after “CONDITIONAL EMPLOYEE.”

(3) In subpart 8-501.20, paragraph (C) shall be deleted and shall be replaced by the following: “(C) Immediate closing of the food establishment, until the regulatory authority determines that no further danger of disease transmission exists.”

(q) In subpart 8-501.30, the phrase “as specified in § 8-501.10” shall be deleted. (Authorized by K.S.A. 36-507; implementing K.S.A. 2006 Supp. 36-503 and K.S.A. 36-507; effective Aug. 13 1999; amended Nov. 30, 2007.)

28-36-109. Mobile food establishments, pushcarts, and temporary food establishments. In addition to meeting the requirements of K.A.R. 28-36-101 through K.A.R. 28-36-108, each licensee of a mobile food establishment or a pushcart and each operator of a temporary food establishment shall meet the department’s requirements in “chapter 9: mobile food establishments, pushcarts, and temporary food establishments,” dated June 2007 and hereby adopted by reference. (Authorized by and implementing K.S.A. 36-507; effective Nov. 30, 2007.)

28-36-120. (Authorized by and implementing 2001 SB 100, Secs. 2 and 3; effective, T-28-7-2-01, July 2, 2001; effective Nov. 9, 2001; revoked Feb. 18, 2005.)

Article 36a.—RESTAURANTS

Editor’s Note:

For regulations on same subject, see agency 28, article 36.

28-36a-1. (Authorized by K.S.A. 36-304, 36-305; effective Jan. 1, 1966; revoked May 1, 1979.)

28-36a-2. (Authorized by K.S.A. 36-304, 36-305; effective Jan. 1, 1966; revoked Jan. 1, 1968.)

28-36a-3 to 28-36a-8. (Authorized by K.S.A. 36-304, 36-305; effective Jan. 1, 1966; revoked May 1, 1979.)

28-36a-9. (Authorized by K.S.A. 36-304, 36-305; effective Jan. 1, 1966; revoked Jan. 1, 1968.)

28-36a-10 to 28-36a-15. (Authorized by K.S.A. 36-304, 36-305; effective Jan. 1, 1966; revoked May 1, 1979.)

28-36a-16. (Authorized by K.S.A. 36-304, 36-305; effective Jan. 1, 1966; amended, E-68-13, May 13, 1968; amended Jan. 1, 1969; revoked May 1, 1979.)

28-36a-17. (Authorized by K.S.A. 36-304, 36-305; effective Jan. 1, 1966; revoked Jan. 1, 1968.)

28-36a-18 to 28-36a-24. (Authorized by K.S.A. 36-302, 36-304, 36-305, K.S.A. 1967 Supp. 36-301, 36-303; effective Jan. 1, 1968; revoked, E-79-29, Oct. 24, 1978; revoked May 1, 1979.)

Article 37.—HOTELS, MOTELS, ROOMING HOUSES AND APARTMENT HOUSES

Editor’s Note:

For regulations on same subject, see agency 28, article 36.

28-37-1 to 28-37-5. (Authorized by K.S.A. 36-304, 36-305; effective Jan. 1, 1966; revoked May 1, 1979.)

28-37-6. (Authorized by K.S.A. 36-304, 36-305; effective Jan. 1, 1966; revoked Jan. 1, 1968.)

28-37-7 and 28-37-8. (Authorized by

K.S.A. 36-304, 36-305; effective Jan. 1, 1966; revoked May 1, 1979.)

28-37-9. (Authorized by K.S.A. 36-304, 36-305; effective Jan. 1, 1966; revoked Jan. 1, 1968.)

28-37-10 to 28-37-14. (Authorized by K.S.A. 36-304, 36-305; effective Jan. 1, 1966; revoked May 10, 1996.)

Article 38.—LICENSURE OF ADULT CARE HOME ADMINISTRATORS

28-38-1. (Authorized by K.S.A. 65-3503; effective Feb. 15, 1977; revoked May 1, 1981.)

28-38-2. (Authorized by K.S.A. 65-3503; effective Feb. 15, 1977; amended, E-81-4, Jan. 10, 1980; revoked May 1, 1981.)

28-38-3. (Authorized by K.S.A. 65-3503; effective Feb. 15, 1977; revoked May 1, 1981.)

28-38-4 to 28-38-7. (Authorized by K.S.A. 65-3503; effective Feb. 15, 1977; amended, E-81-4, Jan. 10, 1980; revoked May 1, 1981.)

28-38-8. (Authorized by K.S.A. 65-3503; effective Feb. 15, 1977; revoked May 1, 1981.)

28-38-9. (Authorized by K.S.A. 65-3503; effective Feb. 15, 1977; amended, E-81-4, Jan. 10, 1980; revoked, May 1, 1981.)

28-38-10 to 28-38-12. (Authorized by K.S.A. 65-3503; effective Feb. 15, 1977; revoked May 1, 1981.)

28-38-13. (Authorized by K.S.A. 60-2101; effective Feb. 15, 1977; revoked May 1, 1981.)

28-38-14 to 28-38-16. (Authorized by K.S.A. 65-3503; effective Feb. 15, 1977; revoked May 1, 1981.)

28-38-17. (Authorized by and implementing K.S.A. 65-3503; effective May 1, 1981; amended May 1, 1983; revoked Sept. 24, 1990.)

28-38-18. Licensing examinations. (a) Each candidate for licensure as an adult care home administrator shall be required to pass a national examination and a state law examination for adult care home administration approved by the board.

(b) Each candidate for licensure shall pay the required examination fee for the national examination directly to the testing agency. An exami-

nation fee shall be required each time a candidate takes the national examination.

(c) The minimum passing scaled score for the national examination shall be 113. The minimum passing raw score for the state law examination shall be 75 percent.

(d) Each candidate for licensure who has been disqualified for failing the national examination shall be given written notification by the board of the disqualification and the reason or reasons for failing, including a breakdown of the subject areas passed and failed.

(e) A candidate who has failed three national examinations shall not submit a new application for examination until the candidate has completed a course of additional education submitted by the candidate's practicum coordinator and approved by the board.

(f) Any candidate who fails the state examination may retake the state law examination until the candidate passes this examination.

(g) The national association of boards of examiners for adult care home administrators (NAB) shall be the approved national examination for licensure. (Authorized by K.S.A. 2007 Supp. 65-3503; implementing K.S.A. 2007 Supp. 65-3503 and 65-3504; effective May 1, 1981; amended July 1, 1981; amended, E-82-12, June 17, 1981; amended May 1, 1982; amended Sept. 24, 1990; amended May 10, 1993; amended July 14, 2000; amended Jan. 17, 2003; amended Oct. 3, 2003; amended Dec. 5, 2008.)

28-38-19. Qualification for licensure. (a) Each candidate for initial licensure as an adult care home administrator shall meet the following qualifications:

(1) Each candidate shall hold a baccalaureate or higher degree from an accredited college or university.

(2) Each candidate shall have successfully completed a long-term care administration practicum that is conducted by an accredited college or university or an equivalent educational training practicum. Both types of practicum shall meet the following requirements:

(A) Consist cumulatively of at least 480 clock-hours and be completed in not more than three practice settings;

(B) incorporate the "core of knowledge," as defined in K.A.R. 28-38-29, or the "domains of practice," as defined in K.A.R. 28-38-29;

(C) provide the training in either, or a combi-

nation of, a licensed adult care home or long-term care unit of a licensed hospital, excluding assisted-living and residential health care facilities;

(D) verify that the candidate has obtained a preceptor in the adult care home or in the hospital long-term care unit;

(E) assume responsibility for coordinating with the preceptor the type of training and supervision to be provided during the practicum; and

(F) ensure that a preceptor meets the following requirements:

(i) Is responsible for the training, knowledge, and professional activities within the facility and for the development and refinement of the trainee as a prospective adult care home administrator;

(ii) does not supervise more than two trainees at a time;

(iii) is a full-time administrator of record or a licensed administrator who directly supervises the administrator of record; and

(iv) maintains direct supervision of the trainee in the facility in which the training is to be provided.

(b) A maximum of 20 hours may be approved by the board toward the 480-hour practicum requirement for completion of an adult care home operator course.

(c) Up to 40 hours for each year of work experience, with a maximum of 240 hours, may be approved by the board toward the 480-hour practicum requirement if the experience meets either of the following requirements:

(1) The experience was obtained as an administrator of a Kansas-licensed hospital who also served as the administrator of the hospital's long-term care unit.

(2) The experience was obtained as an adult care home administrator while licensed in another state.

(d) Each trainee shall request that the college, university, or provider of the equivalent educational training practicum submit the practicum curriculum and preceptor qualifications for the board's approval in accordance with this regulation. Each change in the practicum curriculum or preceptor shall require approval by the board in accordance with this regulation. Each trainee shall meet the following requirements:

(1)(A) Be enrolled in a practicum program that terminates with a baccalaureate degree or postbaccalaureate degree; or

(B) hold a baccalaureate or higher degree from an accredited college or university; and

(2) be at least 18 years of age before participating in a practicum. (Authorized by and implementing K.S.A. 2007 Supp. 65-3503 and K.S.A. 2007 Supp. 65-3504; effective May 1, 1981; amended, E-82-12, June 17, 1981; amended May 1, 1982; amended May 1, 1983; amended May 1, 1984; amended May 1, 1987; amended Sept. 24, 1990; amended May 10, 1993; amended July 14, 2000; amended Jan. 17, 2003; amended Oct. 3, 2003; amended Dec. 5, 2008.)

28-38-20. Application for licensure. (a)

Each candidate shall make application in writing on forms provided by the board and shall furnish payment and evidence satisfactory to the board of having met the qualifying requirements as specified in K.A.R. 28-38-19. Documents verifying that the candidate successfully completed the educational requirements shall be submitted no later than 30 days following the date of the examination.

(b) Each candidate shall submit, on board-approved forms, one letter of reference from a licensed adult care home administrator, in state or out of state, and one letter of reference from another person not related to the candidate as defined under "nepotism" in K.A.R. 28-38-29(h).

(c) Each candidate shall provide the board with academic transcripts and proof of receipt of baccalaureate or postbaccalaureate degrees. The candidate shall arrange for transcripts to be provided directly to the board by the accredited college or university.

(d) Each candidate who has received a baccalaureate or postbaccalaureate degree outside the United States or its territories and whose transcript is not in English shall submit an officially translated English copy of the applicant's transcript and, if necessary, supporting documents. The transcript shall be translated by a source and in a manner acceptable to the board. Each applicant shall pay all transcription fees directly to the transcriber.

(e) Each candidate who has received a baccalaureate or postbaccalaureate degree outside the United States or its territories shall obtain an equivalency validation from a board-approved agency that specializes in educational credential evaluations. Each candidate shall pay the required equivalency validation fee directly to the validation agency.

(f) Criminal history records and disciplinary action information shall be requested by the board

on all initial and reinstatement applications and on a sample of renewal applications. If adverse information is received from the candidate, through criminal history records or disciplinary action information, or from any other source, it shall be the candidate's responsibility to provide all necessary records, sworn affidavits, or other documentation required by the board concerning the disciplinary action or criminal conviction, including any evidence that all disciplinary action or sentencing requirements have been completed. All costs for the acquisition of these documents shall be the responsibility of the candidate.

(g) If a candidate has been subject to disciplinary action or has been convicted of a felony, misdemeanor, or DUI, the candidate shall have the burden of proving that the candidate has been rehabilitated and warrants the public trust. (Authorized by and implementing K.S.A. 2001 Supp. 65-3503 and K.S.A. 2001 Supp. 65-3504; effective May 1, 1981; amended, E-82-12, June 17, 1981; amended May 1, 1982; amended May 1, 1983; amended May 1, 1984; amended Sept. 24, 1990; amended May 10, 1993; amended July 14, 2000; amended Jan. 17, 2003.)

28-38-21. Temporary license. (a) Each individual requesting a temporary license shall identify the facility seeking to hire the individual on an emergency basis and shall arrange for that facility to provide the board with written documentation that a licensed, qualified candidate is not available to serve as administrator in the facility. Each candidate for consideration by the board for a temporary license shall meet the following requirements:

(1) Submit an application on board-approved forms accompanied by the applicable fee specified in K.A.R. 28-38-30;

(2) be endorsed in writing to be the most qualified candidate by an authorized representative of the governing body of the facility where the person is to be employed;

(3)(A) Have a baccalaureate or postbaccalaureate degree from an accredited college or university and have passed an examination on state law with a score of at least 75 percent;

(B) have completed a degree-conferring program from an accredited college or university and either be participating or will participate in a long-term care administration or educational training practicum in compliance with K.A.R. 28-38-19(a)(2);

(C) have been previously licensed in Kansas as an adult care home administrator and otherwise be eligible for reinstatement; or

(D) hold a license as an adult care home administrator in another state and otherwise be eligible for reciprocity.

(b) A temporary license may be granted to a qualified applicant and may be renewed upon submission of written documentation by the licensed facility that licensed, qualified applicants remain unavailable. A temporary license may be extended for two consecutive 60-day periods, but shall not exceed a total of 180 days for each individual holding a temporary license.

(c) If a candidate for full licensure has been issued a temporary license and fails the national examination, the candidate's temporary license shall expire on the date indicated on the license. The candidate's temporary license shall not be extended or reissued. (Authorized by and implementing K.S.A. 65-3502; effective May 1, 1981; amended, E-82-12, June 17, 1981; amended May 1, 1982; amended May 1, 1983; amended May 1, 1984; amended May 1, 1987; amended Sept. 24, 1990; amended May 10, 1993; amended July 14, 2000; amended Jan. 17, 2003; amended Dec. 5, 2008.)

28-38-22. Licensure by reciprocity. (a) Each candidate who desires licensure by reciprocity, pursuant to K.S.A. 65-3505 and amendments thereto, shall submit an application on board-approved forms accompanied by a reciprocity application fee and a license application fee, as specified in K.A.R. 28-38-30. All applications for licensure by reciprocity shall be submitted to the Kansas bureau of investigation for the purpose of obtaining criminal history records information to be considered by the board in its determination of eligibility for licensing.

(b) Each candidate shall provide proof of being favorably recommended, in writing, by the state in which the candidate is licensed. To meet this requirement, the candidate shall arrange for that state to directly provide the board with an affirmation that the candidate is in good standing.

(c) Each adult care home administrator who applies for a reciprocal license and whose license was issued by another jurisdiction shall provide documentation to the board of both of the following:

(1) (A) The criteria of the license-issuing jurisdiction are substantially equivalent to the current

Kansas examination, education, training, and experience criteria, as specified in K.A.R. 28-38-18 and K.A.R. 28-38-19; or

(B) the applicant has been continuously licensed during the preceding five years. During that time, the applicant annually attained at least 2,080 hours of experience as an administrator of record of a licensed adult care home or a licensed long-term care unit of a hospital.

(2) The applicant has not had any disciplinary action of a serious nature brought by a licensing board or agency against the candidate. For purposes of this regulation, "disciplinary action of a serious nature" shall mean the revocation or suspension of a license issued by the licensure board or the voluntary surrender of a license in lieu of the completion of an investigation or final disciplinary action. (Authorized by K.S.A. 2007 Supp. 65-3503; implementing K.S.A. 2007 Supp. 65-3503 and K.S.A. 65-3505; effective May 1, 1981; amended, E-82-12, June 17, 1981; amended May 1, 1982; amended May 1, 1984; amended Sept. 24, 1990; amended May 10, 1993; amended July 14, 2000; amended Jan. 17, 2003; amended Dec. 5, 2008.)

28-38-23. License renewal and license reinstatement; continuing education. (a) Each initial license shall be issued for a period of at least 12 months and not more than 24 months. Each application for renewal of a license shall be filed on or before June 30 of the calendar year in which the license expires. All licenses shall be renewable biennially, with the expiration date to be June 30 of the applicable year.

(b) Each candidate shall submit an application on board-approved forms accompanied by the renewal fee, as specified in K.A.R. 28-38-30. An additional late fee, as specified in K.A.R. 28-38-30, shall be assessed for each application that is received postmarked after June 30 of the year in which the license expires. The license may be renewed only if the application, renewal fee, and late renewal fee are received within the 30-day period following the expiration date. If the application and both fees are not received within that 30-day period, the license shall be considered to have lapsed for failure to renew and shall be re-issued only after the license has been reinstated.

(c)(1) Except as provided in subsection (h), each application for renewal shall include an attestation verifying that the licensee has completed at least 50 clock-hours of board-approved contin-

uing education during the licensure period immediately preceding renewal of the license. A licensee's renewal application may be randomly selected for audit to confirm completion of continuing education requirements. Each licensee whose renewal application is selected for audit shall provide all documentation requested by the board. The 50 clock-hours of continuing education shall be earned through attendance at board-approved educational offerings pertaining to the "core of knowledge" or the "domains of practice," as defined in K.A.R. 28-38-29, for the field of adult care home administration and shall be accumulated within subject areas as follows:

(A) At least 30 clock-hours in administration, which may include the following subjects:

- (i) General administration;
- (ii) applicable standards of environmental health and safety;
- (iii) local health and safety regulations;
- (iv) departmental organization and management; and
- (v) community interrelationships;

(B) at least 10 clock-hours in resident care, which may include the following subjects:

- (i) Psychology of resident care;
- (ii) principles of medical care;
- (iii) personal and social care; and
- (iv) therapeutic and supportive care; and

(C) a maximum of 10 clock-hours in electives, which shall be in the domains of practice or the core of knowledge or in health-related fields.

(2) Five hours of continuing education credit in electives shall be approved for attendance, if verified by the sponsor, at state or national annual conventions that pertain to long-term care, in addition to continuing education credit approved for individual sessions at such state or national annual conventions, up to a maximum of 10 hours for each two-year licensure period.

(d) In-service education shall not be considered as a continuing education activity for the purpose of licensure renewal.

(e) Attending a food show or viewing exhibits at vendor booths at a food show designed to introduce food products to licensees shall not be considered as a continuing education activity for the purpose of license renewal.

(f) Fifteen clock-hours of educational credit shall be approved for each college credit semester hour earned within the renewal period that pertains to the domains of practice or the core of knowledge.

(g) Each licensee whose initial licensure period is less than 24 months shall be required to obtain at least two hours of continuing education for each month in the initial licensure period.

(h) Each licensee or nonapproved provider of continuing education who desires approval of a continuing education program shall submit a request for prior approval to the board at least three weeks before the program is to be presented. The request shall provide information about the proposed program, including objectives, course content, and agenda, on a form provided by the board.

(i) Each administrator who attends an educational opportunity and who also serves as a presenter shall receive two clock-hours of credit for each hour of presentation time. Presenters shall not receive additional credit for repetition of these presentations.

(j) Each preceptor shall be awarded 15 clock-hours for each trainee, with 7.5 hours of credit applied toward the continuing education requirement for resident care and 7.5 hours of credit applied toward the continuing education requirement for administration.

(k) Each licensee whose license has lapsed shall submit an application, on board-approved forms, showing completion of 50 clock-hours of continuing education. The application shall be accompanied by the renewal fee and the reinstatement fee specified in K.A.R. 28-38-30.

(l) Each sponsor of continuing education programs shall meet the following requirements:

(1) Offer at least six continuing education activities, including workshops, seminars, academic courses, self-study courses, teleconferences, and educational sessions, over a two-year period;

(2) designate one person, who is referred to as the coordinator, to be responsible for administering all requirements and outcomes of the sponsorship program. The board shall be notified in advance of any staff change involving the coordinator, including proof of that person's credentials to be the coordinator. Each coordinator shall meet one of the following requirements:

(A) Have a current license in the field of adult care home administration;

(B) have experience in a field related to adult care home administration;

(C) serve as staff member of a professional organization related to the field of adult care home administration; or

(D) have experience or academic preparation in adult education or training;

(3) submit an application, in a board-approved format, accompanied by a fee as specified in K.A.R. 28-38-30. The application documents shall be received by the board at least 30 days before the initial continuing education offering. The application fee shall be required for each new or reinstatement application;

(4) ensure that educational offerings pertain to the domains of practice or the core of knowledge for the field of adult care home administration; and

(5) submit an annual report on board-approved forms no later than January 31 each year for the preceding calendar year. This report shall describe the approved continuing education activities sponsored and quality improvement methods used, including how evaluation data is incorporated in planning future educational activities.

(m) If a sponsor of continuing education programs fails to meet the criteria specified in this regulation after receiving approval or if there is a material misrepresentation of any fact with the information submitted to the board by a sponsor, approval may be withdrawn or conditions relating to the sponsorship may be applied by the board after giving the sponsor notice and an opportunity to be heard. (Authorized by K.S.A. 65-3501, K.S.A. 2007 Supp. 65-3503, and K.S.A. 65-3505; implementing K.S.A. 65-3501 and 65-3505; effective May 1, 1981; amended, E-82-12, June 17, 1981; amended May 1, 1982; amended May 1, 1984; amended Sept. 24, 1990; amended May 10, 1993; amended July 14, 2000; amended Jan. 17, 2003; amended Dec. 5, 2008.)

28-38-24. (Authorized by K.S.A. 65-3503; implementing K.S.A. 65-3508; effective May 1, 1981; revoked Sept. 24, 1990.)

28-38-25. (Authorized by K.S.A. 65-3503; implementing K.S.A. 65-3508; effective May 1, 1981; revoked Sept. 24, 1990.)

28-38-26. Display of license. Each person licensed as an adult care home administrator shall display the wall license in a conspicuous place in the office or place of business or employment of the licensee. One or more additional wall licenses shall be provided to each administrator serving as administrator in more than one facility, upon the board's receipt of a written request that is accompanied by the appropriate fee. (Author-

ized by and implementing K.S.A. 1999 Supp. 65-3503; effective May 1, 1981; amended May 1, 1984; amended Sept. 24, 1990; amended July 14, 2000.)

28-38-27. (Authorized by and implementing K.S.A. 65-3503; effective May 1, 1981; revoked May 1, 1984.)

28-38-28. Change of name or address and replacement or renewal license card. (a) Change of name or address. Each licensee shall notify the department of any name or address change within 30 days of the change. Each licensee who is found to have willfully or repeatedly failed to comply with this regulation may be subject to disciplinary action by the board pursuant to K.S.A. 65-3508 (c), and amendments thereto.

(1) Notice of each address change shall include the licensee's name, license number, previous mailing address, and new mailing address.

(2) Notice of each name change shall meet the following criteria:

(A) Be submitted to the department, in writing;

(B) include the licensee's previous name, new name, and license number; and

(C) be accompanied by a copy of a marriage certificate, court decree evidencing the change of name, or a social security card or driver's license reflecting the new name.

(b) Replacement or renewal card. Each licensee seeking a replacement license or license renewal card, or both, shall submit a completed board-approved form for each license or license renewal card, payment of the applicable replacement fee, and, if possible, the most recently issued license or license renewal card, or both. (Authorized by and implementing K.S.A. 2001 Supp. 65-3503; effective May 1, 1981; amended Sept. 24, 1990; amended July 14, 2000; amended Jan. 17, 2003.)

28-38-29. Definitions. (a) "Accredited college or university" means a college or university that is accredited by an accrediting body recognized by the council on postsecondary accreditation or by the secretary of the U.S. department of education.

(b) "Administrator of record" means the licensed adult care home administrator on record with the Kansas department on aging as the administrator of the facility in which the applicant's practicum will be provided.

(c) "Clock-hour" means a minimum of 50 minutes of direct instruction, exclusive of registration, breaks, and meals.

(d) "Continuing education" means a formally organized learning experience that has education as its explicit, principal intent and that is oriented toward the enhancement of adult care home administration values, skills, knowledge, and ethics.

(e) "Core of knowledge" means the educational training contents for the field of adult care home administration, as established in the "core of knowledge" for the field of adult care home administration in the federal register, vol. 37, no. 61, 252.20(i)(1-9), page 6452, dated March 29, 1972, which is adopted by reference.

(f) "Direct supervision" means the process by which an on-site preceptor directs and monitors the day-to-day activities of a trainee to ensure that these activities are performed without risk or harm to residents.

(g) "Disciplinary action" means a final action taken by the board or by a board or agency in another jurisdiction that is responsible for licensing adult care home administrators.

(h) "Domains of practice" means the knowledge, skills, and abilities listed in table 1, "domains of nursing home administrator practice," on page 4 and outlined in exhibit 1 on pages 7 through 13 of the "summary report of the job analysis of nursing home administrators," prepared for the national association of boards of examiners of long term care administrators and by the professional examination service, department of research and development, dated November 2007, and hereby adopted by reference.

(i) "Good character" means the moral standards and fitness that are required in a candidate for a license as an adult care home administrator. This term includes good judgment, integrity, honesty, fairness, credibility, reliability, respect for others, respect for the laws of the state and nation, self-discipline, self-evaluation, initiative, and commitment to the profession of adult care home administration and its values and ethics.

(j) "Good standing" means both of the following:

(1) The candidate's license is not under any administrative proceeding.

(2) The candidate's license has not been limited, suspended, or revoked.

(k) "Licensure period" means the period of time between the date a license is issued and the date it expires. All licenses shall expire biennially

on June 30. Each license shall be issued for a period of not less than 12 months and not more than 24 months.

(l) "Nepotism" means favoritism shown to a relative on the basis of relationship as a family member or as a member of a household. For the purposes of this definition, "family member" means any of the following:

- (1) A spouse, parent, child, or sibling;
- (2) a sibling as denoted by the prefix "half";
- (3) a parent, child, or sibling as denoted by the prefix "step";
- (4) a foster child;
- (5) an uncle, aunt, nephew, or niece;
- (6) any parent or child of a preceding or subsequent generation as denoted by the prefix "grand" or "great"; or
- (7) a parent, child, or sibling related by marriage as denoted by the suffix "in-law."

For the purposes of this definition, "member of a household" means a person having legal residence in, or living in, an individual's place of residence.

(m) "Preceptor" means a person who meets the following qualifications:

(1) Holds a current license in Kansas as an adult care home administrator that is not under suspension; and

(2) has had either three years of full-time experience or a total of 5,000 hours of experience, within the preceding five years, as a licensed adult care home administrator of a nursing facility, a nursing facility for mental health, or an intermediate care facility for the mentally retarded. This experience shall have consisted of direct responsibility for, or active assistance and advising on, the general administration of the facility, including responsibility for planning, organizing, directing, and controlling the operation of the facility.

(n) "Sponsor" means any entity approved by the board to provide continuing education programs or courses on a long-term basis.

(o) "Sponsorship" means an approved, long-term provision of programs for the purpose of fulfilling the continuing education requirements for renewal or reinstatement. (Authorized by and implementing K.S.A. 2007 Supp. 65-3503; effective May 10, 1993; amended July 14, 2000; amended Jan. 17, 2003; amended Dec. 5, 2008.)

28-38-30. Fees. (a) The license application fee shall be \$100.00. The license application fee for an initial licensure period of less than 24

months shall be prorated at \$4.00 per month for any full or partial month, until June 30 of the calendar year, that is not less than 12 months and not more than 24 months from the date of application.

(b) The license renewal fee shall be \$100.00.

(c) The temporary license application fee shall be \$100.00.

(d) The application fee for reinstatement of a lapsed or revoked license shall be \$120.00, in addition to the license renewal fee specified in subsection (b) of this regulation.

(e) The application fee for licensure by reciprocity shall be \$120.00, in addition to the application fee specified in subsection (a) of this regulation.

(f) The late renewal fee shall be \$50.00.

(g) The wall or wallet card license replacement fee shall be \$10.00.

(h) The duplicate wall license fee for any administrator serving as administrator in more than one facility shall be \$10.00.

(i) The continuing education sponsorship application fee shall be \$150.00.

(j) All fees shall be nonrefundable. (Authorized by and implementing K.S.A. 2001 Supp. 65-3503 and 65-3505; effective July 14, 2000; amended Jan. 17, 2003.)

Article 39.—LICENSURE OF ADULT CARE HOMES

SKILLED NURSING HOMES

28-39-1 to 28-39-22. (Authorized by K.S.A. 39-932; effective Feb. 15, 1977; revoked May 1, 1982.)

28-39-23 to 28-39-29. Reserved.

INTERMEDIATE CARE HOMES

28-39-30 to 28-39-50. (Authorized by K.S.A. 39-932; effective Feb. 15, 1977; revoked May 1, 1982.)

28-39-51 to 28-39-59. Reserved.

PERSONAL CARE HOMES

28-39-60 to 28-39-75. (Authorized by K.S.A. 39-932; effective Feb. 15, 1977; revoked May 1, 1982.)

GENERAL

28-39-76. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982; amended May 1, 1984; revoked Nov. 1, 1993.)

28-39-77. (Authorized by K.S.A. 39-932; implementing K.S.A. 39-927, 39-932, and K.S.A. 1990 Supp. 39-930; effective May 1, 1982; amended, T-84-17, July 26, 1983; amended May 1, 1984; amended, T-87-51, Dec. 19, 1986; amended May 1, 1987; amended, T-88-57, Dec. 16, 1987; amended May 1, 1988; amended April 3, 1989; amended Dec. 30, 1991; revoked Nov. 1, 1993.)

28-39-77a. (Authorized by and implementing L. 1985, Ch. 151, Sec. 1; effective May 1, 1986; revoked Nov. 1, 1993.)

28-39-78. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982; revoked Nov. 1, 1993.)

28-39-79. (Authorized by K.S.A. 39-932, K.S.A. 1983 Supp. 39-936; implementing K.S.A. 1983 Supp. 39-936; effective, T-84-22, Aug. 30, 1983; effective May 1, 1984; revoked Feb. 28, 1994.)

28-39-80. (Authorized by K.S.A. 39-932, K.S.A. 1983 Supp. 39-936; implementing K.S.A. 1983 Supp. 39-936; effective, T-84-22, Aug. 30, 1983; effective May 1, 1984; revoked Feb. 28, 1994.)

28-39-81. (Authorized by K.S.A. 75-5625; implementing K.S.A. 65-1,120; effective May 1, 1984; amended Aug. 13, 1990; revoked Feb. 28, 1994.)

28-39-81a. (Authorized by K.S.A. 75-5625; implementing K.S.A. 1983 Supp. 65-1,121, 65-1124; effective May 1, 1984; revoked Feb. 28, 1994.)

28-39-81b. (Authorized by K.S.A. 75-5625; implementing K.S.A. 1983 Supp. 65-1,121; 65-1124; effective May 1, 1984; revoked Feb. 28, 1994.)

SKILLED NURSING FACILITIES AND
INTERMEDIATE CARE FACILITIES

28-39-82. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982; revoked Nov. 1, 1993.)

28-39-83. (Authorized by and implement-

ing K.S.A. 39-932; effective May 1, 1982; amended May 1, 1985; amended, T-88-57, Dec. 16, 1987; amended May 1, 1988; revoked Nov. 1, 1993.)

28-39-84. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982; revoked Nov. 1, 1993.)

28-39-85. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982; revoked Nov. 1, 1993.)

28-39-86. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982; revoked Nov. 1, 1993.)

28-39-87. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982; amended May 1, 1984; amended May 1, 1986; amended May 1, 1987; amended May 1, 1988; amended July 17, 1989; revoked Nov. 1, 1993.)

28-39-88. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982; revoked Nov. 1, 1993.)

28-39-89. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982; revoked Nov. 1, 1993.)

28-39-90. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982; revoked Nov. 1, 1993.)

28-39-91. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982; revoked Nov. 1, 1993.)

28-39-92. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982; revoked Nov. 1, 1993.)

28-39-93. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982; revoked Nov. 1, 1993.)

28-39-94. (Authorized by and implementing K.S.A. 39-932; effective, T-83-4, Jan. 7, 1982; effective May 1, 1982; amended May 1, 1984; revoked Nov. 1, 1993.)

28-39-95. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982; revoked Nov. 1, 1993.)

28-39-96. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982; revoked Nov. 1, 1993.)

28-39-97. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982; revoked Nov. 1, 1993.)

28-39-98. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982; revoked Nov. 1, 1993.)

28-39-99. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982; revoked Nov. 1, 1993.)

28-39-100. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982; revoked Nov. 1, 1993.)

28-39-101. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982; revoked Nov. 1, 1993.)

28-39-102. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982; revoked Nov. 1, 1993.)

28-39-103. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982; revoked Nov. 1, 1993.)

28-39-103a. (Authorized by K.S.A. 29-932; implementing K.S.A. 1983 Supp. 39-927, 39-930 and K.S.A. 39-932; effective May 1, 1984; revoked Nov. 1, 1993.)

28-39-104. (Authorized by and implementing K.S.A. 39-932; effective, T-83-4, Jan. 7, 1982; effective May 1, 1982; amended, T-83-15, July 1, 1982; amended May 1, 1983; revoked Nov. 1, 1993.)

28-39-105. (Authorized by and implementing K.S.A. 39-932; effective, T-83-4, Jan. 7, 1982; effective May 1, 1982; amended, T-83-15, July 1, 1982; amended May 1, 1983; revoked Nov. 1, 1993.)

28-39-106. (Authorized by and implementing K.S.A. 39-932; effective, T-83-4, Jan. 7, 1982; effective May 1, 1982; amended, T-83-15, July 1, 1982; amended May 1, 1983; revoked Nov. 1, 1993.)

28-39-107. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982; revoked Nov. 1, 1993.)

28-39-108. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982; revoked Nov. 1, 1993.)

28-39-109. (Authorized by and imple-

menting K.S.A. 39-932; effective May 1, 1982; revoked Nov. 1, 1993.)

28-39-110. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982; revoked Nov. 1, 1993.)

28-39-111. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982; amended, T-87-51, Dec. 19, 1986; amended May 1, 1987; revoked Nov. 1, 1993.)

28-39-112. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982; revoked Nov. 1, 1993.)

28-39-113. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982; revoked Nov. 1, 1993.)

PERSONAL CARE FACILITIES

28-39-114 to 28-39-129. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982; revoked, T-88-57, Dec. 16, 1987; revoked May 1, 1988.)

28-39-130. (Authorized by and implementing K.S.A. 39-932; effective, May 1, 1982; amended T-83-15, July 1, 1982; amended May 1, 1983; revoked, T-88-57, Dec. 16, 1987; revoked May 1, 1988.)

28-39-131. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982; revoked, T-88-57, Dec. 16, 1987; revoked May 1, 1988.)

ONE-BED AND TWO-BED HOMES

28-39-132. (Authorized by K.S.A. 39-932; implementing K.S.A. 39-932, K.S.A. 1982 Supp. 39-927, 39-930; effective, T-83-4, Jan. 7, 1982; effective May 1, 1982; amended, T-83-28, Sept. 22, 1982; amended May 1, 1983; revoked May 1, 1984.)

28-39-133. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982; revoked Oct. 8, 1999.)

28-39-134 to 28-39-137. (Authorized by and implementing K.S.A. 39-932; effective, T-83-4, Jan. 7, 1982; effective May 1, 1982; amended, T-83-28, Sept. 22, 1982; amended May 1, 1983; revoked Oct. 8, 1999.)

BOARDING CARE HOMES

28-39-138. (Authorized by K.S.A. 39-932; implementing K.S.A. 1982 Supp. 39-927, 39-930; effective, T-83-28, Sept. 22, 1982; effective May 1, 1983; revoked May 1, 1984.)

28-39-139 to 28-39-143. Authorized by and implementing K.S.A. 39-932; effective, T-83-28, Sept. 22, 1982; effective May 1, 1983; revoked, T-88-57, Dec. 16, 1987; revoked May 1, 1988).

28-39-144. Definitions. The following definitions shall apply to all adult care homes except nursing facilities for mental health and intermediate care facilities for the mentally retarded.

(a) "Activities director" means an individual who meets one of the following requirements:

- (1) Has a degree in therapeutic recreation;
- (2) has two years of experience in a social or recreational program within the last five years, one of which was full-time in a patient activities program in a health care setting;
- (3) is registered in Kansas as an occupational therapist or occupational therapy assistant;
- (4) has a bachelor's degree in a therapeutic activity field in art therapy, horticultural therapy, music therapy, special education, or a related therapeutic activity field; or
- (5) has completed a course approved by the department in resident activities coordination and receives consultation from a therapeutic recreation specialist, an occupational therapist, an occupational therapy assistant, or an individual with a bachelor's degree in art therapy, music therapy, or horticultural therapy.

(b) "Administrator" means any individual who is charged with the general administration of a nursing facility, nursing facility for mental health, assisted living facility, or residential health care facility, whether or not the individual has an ownership interest in the adult care home. Each administrator of an adult care home shall be licensed in accordance with K.S.A. 65-3501 et seq., and amendments thereto.

(c) "Adult day care" means an adult care home that meets the definition in K.S.A. 39-923, and amendments thereto.

(d) "Adult care home" means any of the following facilities licensed by the secretary of health and environment:

- (1) A nursing facility;
- (2) a nursing facility for mental health;

(3) an intermediate care facility for the mentally retarded;

- (4) an assisted living facility;
- (5) a residential health care facility;
- (6) a home-plus facility;
- (7) an adult day care facility; or
- (8) a boarding care home.

(e) "Advanced registered nurse practitioner" means an individual who is certified by the Kansas board of nursing as an advanced registered nurse practitioner.

(f) "Alteration" means any addition, modification, or modernization in the structure or usage of a facility.

(g) "Ambulatory resident" means any resident who is physically and mentally capable of performing the following:

- (1) Getting in and out of bed; and
- (2) walking in a normal path to safety in a reasonable period of time without the assistance of another person.

(h) "Applicant" means any individual, firm, partnership, corporation, company, association, or joint stock association requesting a license to operate an adult care home.

(i) "Assisted living facility" means an adult care home that meets the definition found in K.S.A. 39-923, and amendments thereto.

(j) "Audiologist" means an individual who is licensed by the Kansas department of health and environment as an audiologist.

(k) "Basement" means the part of a building that is below grade.

(l) "Boarding care home" means an adult care home that meets the definition found in K.S.A. 39-923, and amendments thereto.

(m) "Change of ownership" means any transaction that results in a change of control over the capital assets of an adult care home.

(n) "Clinical record" means a record that includes all the information and entries reflecting each resident's course of stay in an adult care home.

(o) "Controlled substance" means any drug, substance, or immediate precursor included in any of the schedules designated in K.S.A. 65-4105, 65-4107, 65-4109, 65-4111, and 65-4113, and amendments thereto.

(p) "Day shift" means any eight-hour work period that occurs between the hours of 6 a.m. and 9 p.m.

(q) "Department" means the Kansas department of health and environment.

(r) "Dietetic services supervisor" means an individual who meets one of the following requirements:

(1) Is licensed in the state of Kansas as a dietitian;

(2) has an associate's degree in dietetic technology from a program approved by the American dietetic association;

(3) is a dietary manager who is certified by the board of the dietary managers' association; or

(4) has training and experience in dietetic services supervision and management that are determined by the secretary of health and environment to be equivalent in content paragraph (2) or (3) of this subsection.

(s) "Dietitian" means an individual who is licensed by the Kansas department of health and environment as a dietitian.

(t) "Direct care staff" means individuals employed by an adult care home who assist residents in activities of daily living. These activities may include the following:

(1) Grooming;

(2) eating;

(3) toileting;

(4) transferring; and

(5) ambulation.

(u) "Director of nursing" means an individual who meets the following criteria:

(1) Is licensed in Kansas as a registered nurse;

(2) is employed full-time in a nursing facility; and

(3) has the responsibility, administrative authority, and accountability for the supervision of nursing care provided to residents in a nursing facility.

(v) "Drug administration" means an act in which a single dose of a prescribed drug or biological is given by injection, inhalation, ingestion, or any other means to a resident by an authorized person in accordance with all laws and regulations governing the administration of drugs and biologicals. Drug administration shall entail the following:

(1) Removing an individual dose from a labeled container, including a unit-dose container;

(2) verifying the drug and dose with the physician's orders;

(3) administering the dose to the proper resident; and

(4) documenting the dose in the resident's clinical record.

(w) "Drug dispensing" means the delivery of

one or more doses of a drug by a licensed pharmacist or physician. The drug shall be dispensed in a container and labeled in compliance with state and federal laws and regulations.

(x) "Full-time" means 35 or more hours per week.

(y) "Health information management practitioner" means an individual who has met the "standards for initial certification" as a registered record administrator or an accredited record technician adopted by the American medical record association, as in effect on October 1, 1990, and hereby adopted by reference.

(z) "Home-plus" means an adult care home that meets the definition of K.S.A. 39-923, and amendments thereto.

(aa) "Interdisciplinary team" means the following:

(1) A registered nurse with responsibility for the care of the residents; and

(2) other appropriate staff, as identified by resident comprehensive assessments, who are responsible for the development of care plans for residents.

(bb) "Legal representative" means an individual person who has been appointed by a court of law as a guardian or has been selected by a resident in a durable power of attorney for health care decisions.

(cc) "Licensed mental health technician" means an individual licensed by the Kansas board of nursing as a licensed mental health technician.

(dd) "Licensed nurse" means an individual licensed by the Kansas board of nursing as a registered professional nurse or licensed practical nurse.

(ee) "Licensed practical nurse" means an individual who is licensed by the Kansas board of nursing as a licensed practical nurse.

(ff) "Licensed social worker" means an individual who is licensed by the Kansas board of behavioral sciences as a social worker.

(gg) "Licensee" means an individual, firm, partnership, association, company, corporation, or joint stock association authorized by a license obtained from the secretary of health and environment to operate an adult care home.

(hh) "Medication" means any drug defined by K.S.A. 65-1626, and amendments thereto.

(ii) "Medication aide" means an individual who has completed a training program in medication administration as prescribed in K.A.R. 28-39-169 through K.A.R. 28-39-171.

(jj) “Non-ambulatory resident” means any resident who is not physically or mentally capable of getting in and out of bed and walking a normal path to safety without the assistance of another person.

(kk) “Nurse aide” means an individual who has a nurse aide certificate issued by the Kansas department of health and environment according to K.A.R. 28-39-165.

(ll) “Nurse aide trainee” means an individual who is in the process of completing a nurse aide training program as prescribed in K.A.R. 28-39-165 or K.A.R. 28-39-167 and has not been issued a nurse aide certificate by the Kansas department of health and environment.

(mm) “Nursing facility” means an adult care home that meets the definition found in K.S.A. 39-923(a)(2), and amendments thereto.

(nn) “Nursing facility for mental health” means an adult care home that meets the definition of K.S.A. 39-923 (a)(3), and amendments thereto.

(oo) “Nursing personnel” means all of the following:

- (1) Registered professional nurses;
- (2) licensed practical nurses;
- (3) licensed mental health technicians in nursing facilities for mental health;
- (4) medication aides;
- (5) nurse aides; and
- (6) nurse aide trainees.

(pp) “Nursing unit” means a distinct area of a nursing facility serving not more than 60 residents and including the service areas and rooms described in K.A.R. 28-39-162.

(qq) “Occupational therapist” means an individual who is registered with the Kansas board of healing arts as an occupational therapist.

(rr) “Occupational therapy assistant” means an individual who is registered with the Kansas board of healing arts as an occupational therapy assistant.

(ss) “Physical restraint” means any method or any physical device, material, or equipment attached or adjacent to the resident’s body and meeting the following criteria:

- (1) Cannot be easily removed by the resident; and
- (2) restricts freedom of movement or normal access to the resident’s body.

(tt) “Physical therapist” means an individual who is registered with the Kansas board of healing arts as a physical therapist.

(uu) “Physical therapy assistant” means an in-

dividual who is certified by the Kansas board of healing arts as a physical therapy assistant.

(vv) “Physician” means an individual who meets the requirements of the Kansas board of healing arts to practice medicine or osteopathy.

(ww) “Psychopharmacologic drug” means any drug prescribed with the intent of controlling mood, mental status, or behavior.

(xx) “Registered professional nurse” means an individual who is licensed by the Kansas state board of nursing as a registered professional nurse.

(yy) “Respite care” means the provision of services to a resident on an intermittent basis for periods of fewer than 30 days at any one time.

(zz) “Sanitization” means effective bactericidal treatment by a process that reduces the bacterial count, including pathogens, to a safe level on utensils and equipment.

(aaa) “Self-administration of drugs” means the determination by the resident of when to take a drug and the application or ingestion of the drug by the resident without assistance from nursing staff.

(bbb) “Significant change in condition” means a decline or improvement in a resident’s mental, psychosocial, or physical functioning that would result in the need for amendment of the resident’s comprehensive plan of care or negotiated service agreement.

(ccc) “Social services designee” means an individual who meets one of the following qualifications:

- (1) Is licensed by the board of behavioral science as a social worker;
- (2) has a bachelor’s degree in a human service field, including sociology, special education, rehabilitation counseling, or psychology, and receives supervision from a licensed social worker; or
- (3) has completed a course in social services coordination approved by the department and receives supervision from a licensed social worker on a regular basis.

(ddd) “Speech language pathologist” means an individual who is licensed by the Kansas department of health and environment as a speech-language pathologist. (Authorized by and implementing K.S.A. 39-932; effective Nov. 1, 1993; amended Feb. 21, 1997; amended Oct. 8, 1999; amended Nov. 26, 2001.)

28-39-145. (Authorized by K.S.A. 39-932;

implementing K.S.A. 39-927, K.S.A. 39-930 and K.S.A. 39-932; effective Nov. 1, 1993; amended Feb. 21, 1997; revoked Oct. 8, 1999.)

28-39-145a. Licensure of adult care homes. (a) Letter of intent.

(1) Each applicant for an adult care home license shall submit a letter of intent to the department.

(2) The letter of intent shall include all of the following information:

(A) The type of adult care home license being requested;

(B) the name, address, and telephone number of each applicant; and

(C) the street address or legal description of the proposed site.

(b) Initial licensure application.

(1) Each applicant for an initial license shall submit all of the following to the department:

(A) A completed application on a form prescribed by the department; and

(B) copies of legal documents identifying ownership and control, including the following:

(i) Deeds;

(ii) leases;

(iii) management agreements;

(iv) any required approvals of other owners or mortgagors;

(v) curriculum vitae or resumes of all facility and corporate staff responsible for the operation and supervision of the business affairs of the facility. Applicants who operate facilities in states other than Kansas shall submit a complete list of names and addresses of those facilities; and

(vi) a financial statement projecting the first month's operating income and expenses with a current balance sheet showing a minimum of one month's operating expenses in cash or owner's equity. All financial statements shall be prepared according to generally accepted accounting principles and certified by the applicant to be accurate.

(2) Each license shall be issued by the department when all of the following requirements are met:

(A) A licensure application has been completed by the applicant.

(B) Construction is completed.

(C) The facility is found to meet all applicable requirements of the law.

(D) The applicant is found to qualify for a license under the provisions of K.S.A. 39-928, and amendments thereto.

(c) Change of ownership.

(1) The current licensee shall notify the department, in writing, of any anticipated change from that which is recorded on the current license 60 days before the proposed effective date of change.

(2) Each applicant proposing to purchase, lease, or manage an adult care home shall submit all of the following to the department:

(A) A completed application form prescribed by the department; and

(B) legal documents transferring ownership or control, including the following:

(i) Sales contracts;

(ii) leases;

(iii) deeds;

(iv) management agreements;

(v) any required approvals of other owners or mortgagors;

(vi) curriculum vitae or resumes of all facility and corporate staff responsible for the operation and supervision of the business affairs of the facility. Applicants who operate facilities in states other than Kansas shall submit a complete list of those facilities with names and addresses; and

(vii) a financial statement projecting the first month's operating income and expenses with a current balance sheet showing a minimum of one month's operating expenses in cash or owner's equity. All financial statements shall be prepared according to generally accepted accounting principles and certified by the owner as accurate.

(3) Each new license shall be issued by the department when both of the following requirements are met:

(A) A licensure application has been completed by the applicant.

(B) The applicant is found to qualify for a license under the provisions of K.S.A. 39-928, and amendments thereto, and has submitted a completed application form.

(d) New construction or conversion of an existing unlicensed building to an adult care home.

(1) Site approval.

(A) Each applicant shall request approval of the site for any of the following proposed adult care homes at least 30 days before construction begins:

(i) A nursing facility;

(ii) an intermediate care facility for the mentally retarded;

(iii) an assisted living facility; or

(iv) a residential health care facility.

(B) The request for site approval shall be in writing and shall include all of the following information:

(i) The name and telephone number of the individual to be contacted by evaluation personnel;

(ii) the dimensions and boundaries of the site; and

(iii) the name of the public utility or municipality that provides services to the site, including water, sewer, electricity, and natural gas.

(C) Intermediate care facilities for the mentally retarded shall not have more than one residential building as defined in K.A.R. 28-39-225 located on one site or on contiguous sites. The residential buildings shall be dispersed geographically to achieve integration and harmony with the community or neighborhoods in which the buildings are located.

(2) The applicant shall submit one copy of final plans and specifications, which shall be sealed, signed, and certified by a licensed architect to be in compliance with the following regulations:

(A) Nursing facilities, K.A.R. 28-39-162 through K.A.R. 28-39-162c; and

(B) assisted living facilities and residential health care facilities, K.A.R. 28-39-254 through K.A.R. 28-39-256.

(3) The applicant shall provide the department with a 30-day notice of each of the following:

(A) The date on which the architect estimates that 50% of the construction will be completed; and

(B) the date on which the architect estimates that all construction will be completed.

(4) The applicant of a home-plus, boarding care home, or adult day care facility shall submit a drawing of the proposed facility that includes identification and dimensions of rooms or areas as required in the following regulations:

(A) Home plus, K.A.R. 28-39-437;

(B) boarding care, K.A.R. 28-39-411; and

(C) adult day care, K.A.R. 28-39-289 through 28-39-291.

(5) The applicant shall submit to the department any changes from the plans and specifications on file at the department.

(e) Alteration and remodeling of licensed adult care homes involving structural elements.

(1) The licensee shall submit one copy of final plans and specifications, which shall be sealed, signed, and certified by a licensed architect to be in compliance with the following regulations:

(A) Nursing facilities, K.A.R. 28-39-162 through K.A.R. 28-39-162c;

(B) assisted living facilities and residential health care facilities, K.A.R. 28-39-254 through K.A.R. 28-39-256;

(C) intermediate care facilities for the mentally retarded with 16 or fewer beds, K.A.R. 28-39-225;

(D) intermediate care facilities for the mentally retarded with 17 or more beds, K.A.R. 28-39-162 through K.A.R. 28-39-162c; and

(E) nursing facilities for mental health, K.A.R. 28-39-227.

(2) The licensee shall submit to the department a 30-day notice for each of the following:

(A) The date on which the architect estimates that 50% of the construction will be completed;

(B) the date on which the architect estimates all construction will be completed; and

(C) any changes in the plans or specifications information for the alterations and remodeling.

(f) Reports. Each licensee shall file reports with the department on forms and at times prescribed by the department.

(g) Change of administrator, director of nursing, or operator. Each licensee of an adult care home shall notify the department immediately when there is a change in administrator, director of nursing, or operator. When a new administrator, director of nursing, or operator is employed, the licensee shall notify the department of the name, address, and Kansas license number of the new administrator or director of nursing. In the case of a new operator, the licensee shall provide evidence that the individual has completed the operator course as specified by the secretary.

(h) Change of resident capacity. Each licensee shall submit a written request for any proposed change in resident capacity to the department. The effective date of a change in resident capacity shall be the first day of the month following department approval.

(i) Change in use of a required room or area. Each proposed change in the use of a required room or area in an adult care home shall be approved by the department before the change is made.

(j) Fees. Each initial application for a license and each annual report filed with the department shall be accompanied by a fee of \$15.00 for each resident in the stated resident capacity plus \$50.00. Each requested change in resident capacity shall be accompanied by a fee of \$15.00 for

each resident increase or decrease in the stated resident capacity plus \$50.00. No refund of the fee shall be made if a license application is denied. (Authorized by K.S.A. 39-930, 39-932, and 39-933; implementing K.S.A. 39-927, 39-930, 39-932, and 39-933; effective Oct. 8, 1999.)

28-39-146. Receivership of adult care homes. (a) The department may designate as a receiver a person who:

- (1) has operated a Kansas licensed adult care home for at least five consecutive years;
- (2) has a history of compliance with licensure standards;

- (3) is financially solvent; and
- (4) is of good moral character.

(b) Applications to be a designated receiver shall be accepted by the department from time to time on prescribed forms.

(c) A person designated a receiver shall not use the designation for any commercial purpose. (Authorized by and implementing K.S.A. 39-954; effective Nov. 1, 1993; amended Feb. 21, 1997.)

28-39-147. Rights of residents in adult care homes licensed as nursing facilities, assisted living facilities, residential health care facilities, home plus, boarding care homes and adult day care facilities. Each resident shall have a right to a dignified existence, self-determination, and communication with and access to persons and services inside and outside the adult care home. Each adult care home shall protect and promote the rights of each resident as set forth in this regulation.

(a) Exercise of rights.

(1) The adult care home shall afford each resident the right to exercise his or her rights as a resident of the adult care home and as a citizen.

(2) The adult care home shall afford each resident the right to be free from interference, coercion, discrimination, or reprisal from the adult care home in exercising the resident's rights.

(3) If a resident is adjudged incompetent under the laws of the state of Kansas, the legal representative of the resident shall have the power to exercise rights on behalf of the resident.

(4) In the case of a resident who has executed a durable power of attorney for health care decisions, the agent may exercise the rights of the resident to the extent provided by K.S.A. 58-625 through 632.

(b) Notice of rights and services.

(1) Before admission, the adult care home shall

inform each resident or resident's legal representative, both orally and in writing, in a language the resident understands, of the following:

(A) The rights of residents;

(B) the rules governing resident conduct and responsibility; and

(C) the rates and services.

(2) Each resident shall be notified in writing of any changes in charges or services which occur after admission and at least 30 days before the effective date of the change. The changes shall not take place until notice is given.

(c) Inspection of records. The adult care home shall afford each resident or resident's legal representative the right to inspect records pertaining to the resident. The adult care home shall provide photocopies of the resident's record to each resident or resident's legal representative who submits a written request. The adult care home shall provide the photocopies within two working days of the request. The adult care home may charge a fee for the copies which shall not exceed community standards.

(d) The adult care home shall afford the resident the right to be fully informed of the resident's total health status including the resident's medical condition.

(e) Free choice. The adult care home shall afford each resident the right to:

(1) Choose a personal attending physician;

(2) participate in the development of an individual care plan or negotiated service agreement;

(3) refuse treatment;

(4) refuse to participate in experimental research; and

(5) choose the pharmacy where prescribed medications are purchased. When the adult care home uses a unit dose or similar medication distribution system, the resident shall have the right to choose among pharmacies that offer or are willing to offer the same or a compatible system.

(f) Management of financial affairs. The adult care home shall afford each resident the right to manage personal financial affairs and the adult care home shall not require any resident to deposit personal funds with the adult care home.

(g) Notification of changes.

(1) An adult care home shall immediately inform the resident, consult with the resident's physician, and, if known, notify the resident's legal representative or designated family member when there is:

(A) An accident involving the resident which

results in injury and has the potential for requiring a physician's intervention;

(B) a significant change in the resident's physical, mental, or psychosocial status;

(C) a need to alter treatment significantly; or

(D) a decision to transfer or discharge the resident from the adult care home.

(2) The adult care home shall promptly notify the resident, the resident's legal representative, or designated family member when there is a change in room or roommate assignment.

(h) Privacy and confidentiality. Each resident shall have the right to personal privacy and confidentiality of personal and clinical records.

(1) The adult care home shall provide privacy during medical and nursing treatment, written and telephone communications, personal care, visits, and meetings of family and resident groups.

(2) The adult care home shall ensure that personal and clinical records of the resident are maintained in a confidential manner.

(3) The adult care home shall obtain a release signed by the resident or the resident's legal representative before the release of records to anyone outside the adult care home, except in the case of transfer to another health care institution or as required by law.

(i) Grievances. The adult care home shall afford each resident the right to:

(1) Voice grievances with respect to treatment or care that was or was not furnished;

(2) be free from discrimination or reprisal for voicing the grievances; and

(3) receive prompt efforts by the adult care home to resolve grievances the resident may have, including any grievance with respect to the behavior of other residents.

(j) Work.

(1) The adult care home shall afford each resident the right to refuse to perform services for the adult care home.

(2) A resident may perform services for the adult care home, if the resident wishes, when:

(A) the adult care home has documented the need or desire for work in the plan of care or negotiated service agreement;

(B) the plan or agreement specifies the nature of the services performed and whether the services are voluntary or paid; and

(C) the resident or legal representative of the resident has signed a written agreement assenting to the work arrangement described in the plan of care or negotiated service agreement.

(k) Mail. The adult care home shall afford the resident the right to privacy in written communications, including the right to:

(1) Send and receive unopened mail promptly;

(2) have access to stationery, postage and writing implements at the resident's own expense; and

(3) have outgoing mail mailed promptly.

(l) Access and visitation rights.

(1) The adult care home shall provide immediate access to any resident by:

(A) Any representative of the secretary of the Kansas department of health and environment;

(B) the resident's individual physician;

(C) the state long-term care ombudsman;

(D) any representative of the secretary of the Kansas department of social and rehabilitation services;

(E) immediate family or other relatives of the resident; and

(F) others who are visiting with the consent of the resident subject to reasonable restrictions.

(2) The adult care home shall afford each resident the right to deny or withdraw consent for visitation by any person at anytime.

(m) Telephone. The adult care home shall afford each resident the right to reasonable access to a telephone in a place where calls can be made without being overheard.

(n) Personal property. The adult care home shall afford each resident the right to retain and use personal possessions, including furnishings and appropriate clothing as space permits, unless doing so would infringe upon the rights or health and safety of other residents.

(o) Married couples. The adult care home shall afford each resident the right to share a room with the resident's spouse when married residents live in the same adult care home and both spouses consent.

(p) Self-administration of drugs. The adult care home shall afford each resident the right to self-administer drugs in a nursing facility unless the resident's attending physician and the interdisciplinary team has determined that this practice is unsafe. In assisted living, residential health care, home plus and adult day care facilities, a resident may self-administer drugs unless a registered professional nurse or a physician has determined that this practice is unsafe. (Authorized by and implementing K.S.A. 39-932; effective Nov. 1, 1993; amended Feb. 21, 1997.)

28-39-148. Admission, transfer and dis-

charge rights of residents in adult care homes.

(a) The adult care home shall permit each resident to remain in the adult care home, and shall not transfer or discharge the resident from the adult care home unless:

(1) The transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met in the current adult care home;

(2) the safety of other individuals in the adult care home is endangered;

(3) the health of other individuals in the adult care home is endangered;

(4) the resident has failed, after reasonable and appropriate notice, to pay the rates and charges imposed by the adult care home; or

(5) the adult care home ceases to operate.

(b) Before the adult care home transfers or discharges a resident involuntarily, the adult care home shall:

(1) Notify the resident and if known, a family member or legal representative of the resident, of the transfer or discharge and the reasons;

(2) document in the resident's clinical record the reason for the transfer or discharge under any of the circumstances specified in subsection (a) (1) through (4) of this regulation. The documentation shall be made by:

(A) The resident's physician when transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met by the adult care home;

(B) the resident's physician when transfer or discharge is appropriate because the resident's health has improved sufficiently so that resident no longer needs the services provided by the adult care home; or

(C) any physician when transfer or discharge is necessary because the health or safety of other individuals in the adult care home is endangered.

(c) A notice of transfer or discharge shall be provided in writing to the resident or legal representative 30 days before the resident is transferred or discharged involuntarily except in an emergency when:

(1) the safety of other individuals in the adult care home would be endangered; or

(2) the resident's urgent medical needs require an immediate transfer to another health care facility.

(d) The written transfer or discharge notice shall include the following:

(1) The reason for the transfer or discharge;

(2) the effective date of the transfer or discharge;

(3) the address and telephone number of the complaint program of the Kansas department of health and environment where a complaint related to involuntary transfer or discharge may be registered;

(4) the address and telephone number of the long-term care ombudsman for the Kansas department on aging; and

(5) for residents who have developmental disabilities or who are mentally ill, the address and telephone number of the Kansas advocacy and protection services, inc.

(e) Each adult care home shall provide sufficient preparation and orientation to a resident to ensure safe and orderly transfer and discharge from the adult care home.

(f) The adult care home shall develop a discharge plan with the involvement of the resident, family or legal representative when practicable.

(g) If the resident is transferred or discharged to another health care facility, sufficient information shall accompany the resident to assure continuity of care in the new facility.

(h) Before a nursing facility, assisted living, residential health care, or home plus facility transfers a resident to a hospital or a resident goes on therapeutic leave, the facility shall provide written information to the resident and if known, a family member or legal representative that specifies the following:

(1) The period of time during which the resident is permitted to return and resume residence in the facility;

(2) the cost to the resident, if any, to hold the resident's bedroom, apartment, individual living unit or slot in adult day care until the resident's return; and

(3) that when the resident's hospitalization or therapeutic leave exceeds the period identified in the policy of a nursing facility, the resident will be readmitted to the nursing facility immediately upon the first availability of a bed in a semiprivate room if the resident requires the services provided by the nursing facility.

(i) Admission policy. Each licensee shall have written admission policies regarding admission of residents. The admission policy shall meet the following requirements.

(1) The adult care home shall admit only those persons whose physical, mental and psychosocial

needs can be met within the accommodations and services available in the adult care home.

(A) Each resident in a nursing facility shall be admitted under the care of a physician licensed to practice in Kansas.

(B) The adult care home shall not admit children under the age of 16.

(C) Any person in need of specialized services for mental illness shall be admitted only to an adult care home which can provide the accommodations and treatment which will assist that person to achieve and maintain the highest practicable level of physical, mental and psychosocial functioning.

(2) Before admission, the adult care home shall inform the prospective resident or legal representative in writing of the rates and charges for the adult care home's services and of the resident's obligations regarding payment. This information shall include the refund policy of the adult care home.

(3) At the time of admission, the adult care home shall execute a written agreement with the resident or legal representative which describes in detail the services and goods which the resident will receive, and sets forth the obligations that the resident has toward the adult care home.

(4) An admission agreement shall not include a general waiver of liability for the health and safety of residents.

(5) Each admission agreement shall be written in clear and unambiguous language and printed clearly in black type which is not less than 12-point type.

(j) At the time of admission, the adult care home shall inform the resident or legal representative in writing of the state statutes related to advance medical directives.

(1) A copy of any advance medical directives executed by the resident shall be on file in the resident's record.

(2) The adult care home shall develop and implement policies and procedures related to the advance medical directives.

(k) The adult care home shall provide a copy of resident rights, the adult care home's policies and procedures for advance medical directives and the adult care home's grievance policy to each resident or the resident's legal representative before the prospective resident signs any admission agreement. (Authorized by and implementing K.S.A. 39-932; effective Nov. 1, 1993; amended Feb. 21, 1997.)

28-39-149. Protection of resident funds and possessions in nursing facilities.

The nursing facility shall have written policies and procedures which ensure the security of residents' possessions and residents' funds accepted by the facility for safekeeping. (a) The facility shall afford each resident the right to manage the resident's own financial affairs and the facility shall not require any resident to deposit the resident's personal funds with the facility.

(b) Upon written authorization of a resident, the resident's legal representative or power of attorney or an individual who has been appointed conservator for the resident, the facility shall hold, safeguard, manage, and account for the personal funds of the resident deposited with the facility.

(c) The facility shall establish and maintain a system that assures a full, complete, and separate accounting, according to generally accepted accounting principles, of each resident's personal funds entrusted to the facility on the resident's behalf.

(1) The facility shall designate in writing the person responsible for the accounting system.

(2) A record shall be made each time there is a disbursement or addition to the resident's personal fund.

(3) The facility shall provide a written report which includes accounting for all transactions and which states the current fund balance to the resident or the resident's legal representative at least quarterly.

(4) The facility shall deposit any resident's funds in excess of \$50 in one or more interest bearing accounts which are separate from any of the facility's operating accounts, and which credit all interest when earned on the resident's account to the personal account of the resident.

(5) All resident funds deposited by the facility shall be deposited in a Kansas financial institution.

(6) Within 30 days after the death of a resident with personal funds deposited with the facility, the facility shall convey the resident's funds and a final accounting of those funds to the individual or probate jurisdiction administering the resident's estate.

(7) The facility shall purchase a surety bond to assure the security of all residents' personal funds deposited with the facility.

(d) The facility shall have written policies and procedures which ensure the security of each resident's personal possessions.

(1) A written inventory of the resident's per-

sonal possessions, signed by the resident or the resident's legal representative shall be completed at the time of admission and updated at least annually.

(2) If a resident requests that the facility hold personal possessions within the facility for safe-keeping, the facility shall:

(A) Maintain a written record; and

(B) give a receipt to the resident or the resident's legal representative. (Authorized by and implementing K.S.A. 39-932; effective Nov. 1, 1993; amended Feb. 21, 1997.)

28-39-150. Resident behavior and nursing facility practices. (a) Restraints. The resident shall be free from any physical restraints imposed or psychopharmacologic drugs administered for the purposes of discipline or convenience, and not required to treat the resident's medical symptoms.

(1) When physical restraints are used there shall be:

(A) a written physician's order which includes the type of restraint to be applied, the duration of the application and the justification for the use of the restraint;

(B) evidence that at least every two hours the resident is released from the restraint, exercised, and provided the opportunity to be toileted;

(C) regular monitoring of each resident in restraints at intervals of at least 30 minutes;

(D) documentation in the resident's clinical record which indicates that less restrictive methods to ensure the health and safety of the resident were not effective or appropriate; and

(E) evaluation of the continued necessity for the physical restraint at least every three months and more frequently when there is a significant change in the resident's condition.

(2) Equipment used for physical restraints shall be designed to assure the safety and dignity of the resident.

(3) Staff who work with residents in physical restraints shall be trained in the appropriate application of the restraint and the care of a resident who is required to be physically restrained.

(4) In the event of an emergency, a physical restraint may be applied following an assessment by a licensed nurse which indicates that the physical restraint is necessary to prevent the resident from harming him or herself or other residents and staff members. The nursing facility shall obtain physician approval within 12 hours after the application of any physical restraint.

(b) The facility staff and consultant pharmacist shall monitor residents who receive psychopharmacologic drugs for desired responses and adverse effects.

(c) Abuse. Each resident shall have a right to be free from the following:

(1) verbal, sexual, physical, and mental abuse;

(2) corporal punishment; and

(3) involuntary seclusion.

(d) Staff treatment of residents. Each facility shall develop and implement written policies and procedures that prohibit abuse, neglect, and exploitation of residents. The facility shall:

(1) Not use verbal, mental, sexual, or physical abuse, including corporal punishment, or involuntary seclusion;

(2) not employ any individual who has been identified on the state nurse aide registry as having abused, neglected, or exploited residents in an adult care home in the past;

(3) ensure that all allegations of abuse, neglect, or exploitation are investigated and reported immediately to the administrator of the facility and to the Kansas department of health and environment;

(4) have evidence that all alleged violations are thoroughly investigated, and shall take measures to prevent further potential abuse, neglect and exploitation while the investigation is in progress;

(5) report the results of all facility investigations to the administrator or the designated representative;

(6) maintain a written record of all investigations of reported abuse, neglect, and exploitation; and

(7) take appropriate corrective action if the alleged violation is verified. (Authorized by and implementing K.S.A. 39-932; effective Nov. 1, 1993; amended Feb. 21, 1997.)

28-39-151. Resident assessment. Each nursing facility shall conduct at the time of admission, and periodically thereafter, a comprehensive assessment of a resident's needs on an instrument approved by the secretary of health and environment. (a) The comprehensive assessment shall include at least the following information:

(1) Current medical condition and prior medical history;

(2) measurement of the resident's current clinical status;

(3) physical and mental functional status;

(4) sensory and physical impairments;

- (5) nutritional status and impairments;
 - (6) special treatments and procedures;
 - (7) mental and psychosocial status;
 - (8) discharge potential;
 - (9) dental condition;
 - (10) activities potential;
 - (11) rehabilitation potential;
 - (12) cognitive status; and
 - (13) drug therapy.
- (b) A comprehensive assessment shall be completed:
- (1) not later than 14 days after admission;
 - (2) not later than 14 days after a significant change in the resident's physical, mental, or psychosocial condition; and
 - (3) at least once every 12 months.
- (c) The nursing facility staff shall examine each resident at least once every three months, and as appropriate, revise the resident's assessment to assure the continued accuracy of the assessment.
- (d) Changes in a resident's condition which are self-limiting and which will not affect the functional capacity of the resident over the long term do not in themselves require a reassessment of the resident.
- (e) The nursing facility shall use the results of the comprehensive assessment to develop, review, and revise the resident's comprehensive plan of care under subsection (h).
- (f) The nursing facility shall conduct or coordinate each assessment with the participation of appropriate health professionals.
- (g) A registered professional nurse shall conduct or coordinate each comprehensive assessment and shall sign and certify that the assessment has been completed.
- (h) Comprehensive care plans.
- (1) The facility shall develop a comprehensive care plan for each resident that includes measurable objectives and timetables to meet a resident's physical, mental, and psychosocial needs that are identified in the comprehensive assessment.
 - (2) The comprehensive care plan shall be:
 - (A) Developed within seven days after completion of the comprehensive assessment; and
 - (B) prepared by an interdisciplinary team including the attending physician, a registered nurse with responsibility for the care of the resident, and other appropriate staff in other disciplines as determined by the resident's needs, and with the participation of the resident, the resident's legal representative, and the resident's family to the extent practicable.
 - (i) The services provided or arranged by the facility shall:
 - (1) Meet professional standards of quality; and
 - (2) be provided by qualified persons in accordance with each resident's written plan of care.
 - (j) Discharge summary. When the facility anticipates discharge of a resident, a discharge summary shall be developed which includes the following:
 - (1) A recapitulation of the resident's stay;
 - (2) a final summary of the resident's status which includes the items found in the comprehensive assessment, K.A.R. 28-39-151 (a). This summary shall be available for release at the time of discharge to authorized persons and agencies, with the consent of the resident or the resident's legal representative; and
 - (3) a post-discharge plan to assist the resident in the adjustment to a new environment. The resident, and when appropriate, the resident's family, shall participate in the development of the plan. (Authorized by and implementing K.S.A. 39-932; effective Nov. 1, 1993; amended Feb. 21, 1997.)
- 28-39-152. Quality of care.** Each resident shall receive and the nursing facility shall provide the necessary care and services to attain or maintain the highest practicable physical, mental, and psychosocial well-being in accordance with the comprehensive assessment and the plan of care.
- (a) Activities of daily living. Based on the comprehensive assessment of the resident, the facility shall ensure all of the following:
- (1) Each resident's abilities in activities of daily living improve or are maintained except as an unavoidable result of the resident's clinical condition. This shall include the resident's ability to perform the following:
 - (A) Bathe;
 - (B) dress and groom;
 - (C) transfer and ambulate;
 - (D) toilet;
 - (E) eat; and
 - (F) use speech, language, or other functional communication systems.
 - (2) Each resident is given the appropriate treatment and services to maintain or improve the level of functioning as described above in paragraph (1).
 - (3) Any resident who is unable to perform activities of daily living receives the necessary services to maintain good nutrition, grooming, and

personal and oral hygiene. The facility shall ensure all of the following:

(A) Residents are bathed to ensure skin integrity, cleanliness, and control of body odor.

(B) Oral care is provided so that the oral cavity and dentures are clean and odor is controlled.

(C) Residents are dressed and groomed in a manner that preserves personal dignity.

(D) Residents who are unable to eat without assistance are offered fluids and food in a manner that maintains adequate hydration and nutrition.

(E) The resident's abilities to obtain fluid and nutrition in a normal manner are preserved or enhanced.

(b) Urinary incontinence. The facility shall ensure all of the following:

(1) Residents who are incontinent at the time of admission or who become incontinent after admission are assessed, and based on that assessment a plan is developed and implemented to assist the resident to become continent, unless the resident's clinical condition demonstrates that incontinency is unavoidable.

(2) Residents who are incontinent receive appropriate treatment and services to prevent urinary tract infections.

(3) Residents who are admitted to the facility without an indwelling catheter are not catheterized, unless the resident's clinical condition demonstrates that catheterization is necessary.

(4) Residents with indwelling catheters receive appropriate treatment and services to prevent urinary tract infections and to restore normal bladder function, if possible.

(c) Pressure ulcers. Based on the comprehensive assessment, the facility shall ensure all of the following:

(1) Any resident who enters the facility without pressure ulcers does not develop pressure ulcers, unless the resident's clinical condition demonstrates that they were unavoidable. The facility shall report in writing the development of any pressure ulcer to the medical director.

(2) Any resident with pressure ulcers receives the necessary treatment and services to promote healing, prevent infection, and prevent new ulcers from developing.

(3) A skin integrity program is developed for each resident identified to be at risk for pressure ulcers. The program shall include the following:

(A) Frequent changes of position at least one time every two hours;

(B) protection of the skin from items that could promote loss of skin integrity;

(C) the use of protective devices over vulnerable areas, including heels, elbows, and other body prominences; and

(D) methods to assist the resident to remain in good body alignment.

(d) Stasis ulcers. Based on the comprehensive assessment of the resident, the facility shall ensure both of the following:

(1) Any resident who is identified on the comprehensive assessment as being at risk for development of stasis ulcers does not develop stasis ulcers, unless the resident's clinical condition demonstrates that the stasis ulcers were unavoidable.

(2) Any resident with stasis ulcers receives the necessary treatment and services to promote healing, prevent infection, and prevent new ulcers from developing.

(e) Range of motion. Based on the comprehensive assessment of a resident, the facility shall ensure all of the following:

(1) Any resident who enters the facility without a limitation in range of motion does not experience a reduction in range, unless the resident's clinical condition demonstrates that a reduction in range of motion is unavoidable.

(2) Any resident with a decrease in range of motion receives appropriate treatment and services to increase range of motion, if practicable, and to prevent further decrease in range of motion.

(3) Any resident who is identified as at risk for experiencing a decrease in range of motion is provided appropriate treatment and services to prevent the decrease.

(f) Mobility. Based on the comprehensive assessment of the resident, the facility shall ensure all of the following:

(1) A resident's level of mobility does not decrease after admission, unless the resident's clinical condition demonstrates that a reduction in mobility is unavoidable.

(2) Any resident with a limitation in mobility receives the appropriate treatment and services to maintain or increase the resident's mobility.

(3) Any resident who is identified by the comprehensive assessment to be at risk for a reduction of function in the area of mobility is provided the treatment and services to prevent or limit that decrease in function.

(g) Psychosocial functioning. Based on the

comprehensive assessment of the resident, the facility shall ensure both of the following:

(1) A resident's level of psychosocial functioning does not decrease after admission, unless the resident's clinical condition demonstrates that a reduction in psychosocial functioning is unavoidable.

(2) Any resident who displays psychosocial adjustment difficulty receives appropriate treatment and services to achieve as high a level of psychosocial functioning as possible within the constraints of the resident's clinical condition.

(h) Gastric tubes. Based on the comprehensive assessment of a resident, the facility shall ensure that each resident meets either of the following criteria:

(1) Has been able to eat enough to maintain adequate nutrition and hydration independently or with assistance is not fed by a gastric tube, unless the resident's clinical condition demonstrates that use of a gastric tube was unavoidable; or

(2) is fed by a gastric tube and receives the following appropriate treatment and services:

(A) To prevent the following:

- (i) Aspiration pneumonia;
- (ii) diarrhea;
- (iii) vomiting;
- (iv) dehydration;
- (v) metabolic abnormalities;
- (vi) nasal and pharyngeal ulcers; and
- (vii) ulceration at a gastrostomy tube site; and

(B) to restore, if possible, normal feeding function.

(i) Accidents. The facility shall ensure both of the following:

(1) The resident's environment remains free of accident hazards.

(2) Each resident receives adequate supervision and assistive devices to prevent accidents.

(j) Nutrition. Based on the resident's comprehensive assessment, the facility shall ensure all of the following for each resident:

(1) Maintenance of acceptable parameters of nutritional status, including usual body weight and protein levels, unless the resident's clinical condition demonstrates that this is not possible;

(2) a therapeutic diet as ordered by the attending physician when there is a nutritional problem or there is a potential for a nutritional problem; and

(3) for residents at risk for malnutrition, the provision of monitoring and appropriate treatment and services to prevent malnutrition.

(k) Hydration. The facility shall provide each resident with sufficient fluid intake to maintain proper hydration and health.

(1) Fresh water, with or without ice according to the preference of the resident, shall be accessible to each resident at all times except when not appropriate due to resident's clinical condition.

(2) Any resident at risk for dehydration shall be monitored, and appropriate treatment and services shall be provided to prevent dehydration.

(l) The facility shall ensure that each resident receives proper treatment and care for special services, which shall include the following:

(1) Parenteral injections. Parenteral injections shall be performed by licensed nurses and physicians;

(2) Intravenous fluids and medications. Intravenous fluids and medications shall be administered and monitored by a registered nurse or by a licensed practical nurse who has documented successful completion of training in intravenous therapy;

(3) colostomy, ureterostomy, or ileostomy care;

(4) tracheostomy care;

(5) tracheal suctioning;

(6) respiratory care;

(7) podiatric care;

(8) prosthetic care;

(9) skin care related to pressure ulcers;

(10) diabetic testing; and

(11) other special treatments and services ordered by the resident's physician.

(m) Drug therapy. The facility shall ensure that all drugs are administered to residents in accordance with a physician's order and acceptable medical practice. The facility shall further ensure all of the following:

(1) All drugs are administered by physicians, licensed nursing personnel, or other personnel who have completed a state-approved training program in drug administration.

(2) A resident may self-administer drugs if the interdisciplinary team has determined that the resident can perform this function safely and accurately and the resident's physician has given written permission.

(3) Drugs are prepared and administered by the same person.

(4) The resident is identified before administration of a drug, and the dose of the drug administered to the resident is recorded on the res-

ident's individual drug record by the person who administers the drug.

(n) Oxygen therapy. The facility shall ensure that oxygen therapy is administered to a resident in accordance with a physician's order. The facility shall further ensure all of the following:

(1) Precautions are taken to provide safe administration of oxygen.

(2) Each staff person administering oxygen therapy is trained and competent in the performance of the required procedures.

(3) Equipment used in the administration of oxygen, including oxygen concentrators, is maintained and disinfected in accordance with the manufacturer's recommendations.

(4) A sign that reads "oxygen—no smoking" is posted and visible at the corridor entrance to a room in which oxygen is stored or in use.

(5) All smoking materials, matches, lighters, or any item capable of causing a spark has been removed from a room in which oxygen is in use or stored.

(6) Oxygen containers are anchored to prevent them from tipping or falling over. (Authorized by and implementing K.S.A. 39-932; effective Nov. 1, 1993; amended Feb. 21, 1997; amended Oct. 8, 1999.)

28-39-153. Quality of life. Each nursing facility shall care for its residents in a manner and in an environment that promotes maintenance or enhancement of each resident's quality of life.

(a) Dignity. Each facility shall promote respect of each resident and shall fully recognize each resident's individuality.

(b) Self-determination and participation. The nursing facility shall afford each resident the right to:

(1) Choose activities, schedules, and health care consistent with resident's interests, assessments and care plans;

(2) interact with members of the community both inside and outside the facility; and

(3) make choices about aspects of the resident's life that are significant to the resident.

(c) Participation in resident and family groups.

(1) The facility shall afford each resident the right to organize and participate in resident groups in the facility.

(2) The nursing facility shall afford each resident's family the right to meet in the facility with the families of other residents in the facility.

(3) Staff or visitors may attend meetings at the group's invitation.

(4) The facility shall designate a staff person responsible for providing assistance and responding to written requests that result from group meetings.

(5) When a resident or family group exists, the facility shall consider the views, grievances, and recommendations of residents and their families concerning proposed policy and operational decisions affecting resident care and life in the facility. The nursing facility shall maintain a record of the written requests and the facility responses or actions.

(d) Participation in other activities. The nursing facility shall afford each resident the right to:

(1) Participate in social, religious, and community activities that do not interfere with the rights of other residents in the facility; and

(2) reside and receive services in the facility with reasonable accommodation of individual needs and preferences, except when the health or safety of the individual or other residents would be endangered.

(e) Activities.

(1) The facility shall provide an ongoing program of activities designed to meet, in accordance with the comprehensive assessment, the interests of and promote the physical, mental, and psychosocial well-being of each resident.

(2) A qualified activities director shall direct the activities program.

(3) The nursing facility shall employ activities personnel at a minimum weekly average of .09 hours per resident per day.

(f) Social services.

(1) The facility shall provide medically-related social services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident.

(2) Any facility with more than 120 beds shall employ a full-time social service designee who:

(A) is a licensed social worker; or

(B) (i) meets the qualifications in K.A.R. 28-39-144 (bbb); and

(ii) receives supervision from a licensed social worker.

(3) Any facility with 120 beds or fewer shall employ a social services designee. If the social service designee is not a licensed social worker or meets the requirements in K.A.R. 28-39-144 (bbb)(2), a licensed social worker shall supervise the social service designee.

(4) The nursing facility shall employ social service personnel at a minimum weekly average of .09 hours per resident per day. (Authorized by and implementing K.S.A. 39-932; effective Nov. 1, 1993; amended Feb. 21, 1997.)

28-39-154. Nursing services. Each nursing facility shall have sufficient nursing staff to provide nursing and related services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident as determined by resident assessments and individual plans of care. (a) Sufficient staff. The facility shall employ sufficient numbers of each of the following types of personnel to provide nursing care to all residents in accordance with each resident's comprehensive assessment and care plan.

(1) The nursing facility shall employ full-time a director of nursing who is a registered nurse. The director of nursing shall have administrative authority over and responsibility for the functions and activities of the nursing staff.

(2) A registered nurse shall be on duty at least eight consecutive hours per day, seven days per week. The facility may include the director of nursing to meet this requirement.

(3) A licensed nurse shall be on duty 24 hours per day, seven days per week.

(A) On the day shift there shall be the same number of licensed nurses on duty as there are nursing units.

(B) If a licensed practical nurse is the only licensed nurse on duty, a registered nurse shall be immediately available by telephone.

(4) At least two nursing personnel shall be on duty at all times in the facility. Personnel shall be immediately accessible to each resident to assure prompt response to the resident call system and necessary action in the event of injury, illness, fire, or other emergency.

(5) The nursing facility shall not assign nursing personnel routine housekeeping, laundry, or dietary duties.

(6) Direct care staff shall wear identification badges to identify name and position.

(7) The nursing facility shall ensure that direct care staff are available to provide resident care in accordance with the following minimum requirements.

(A) Per facility, there shall be a weekly average of 2.0 hours of direct care staff time per resident and a daily average of not fewer than 1.85 hours during any 24 hour period. The director of

nursing shall not be included in this computation in facilities with more than 60 beds.

(B) The ratio of nursing personnel to residents per nursing unit shall not be fewer than one nursing staff member for each 30 residents or for each fraction of that number of residents.

(C) The licensing agency may require an increase in the number of nursing personnel above minimum levels under certain circumstances. The circumstances may include the following:

- (i) location of resident rooms;
- (ii) locations of nurses' stations;
- (iii) the acuity level of residents; or
- (iv) that the health and safety needs of residents are not being met.

(b) The nursing facility shall maintain staffing schedules on file in the facility for 12 months and shall include hours actually worked and the classification of nursing personnel who worked in each nursing unit on each shift. (Authorized by and implementing K.S.A. 39-932; effective Nov. 1, 1993; amended Feb. 21, 1997.)

28-39-155. Physician services. Each resident in a nursing facility shall be admitted and shall remain under the care of a physician.

(a) The facility shall ensure that both of the following conditions are met:

(1) The medical care of each resident is supervised by a physician.

(2) Another physician supervises the medical care of residents when the resident's attending physician is not available.

(b) The physician shall perform the following duties:

(1) At the time of the resident's admission to the facility, provide orders for the immediate care of the resident, current medical findings, and diagnosis. The physician shall provide a medical history within seven days after admission of the resident;

(2) review the resident's total program of care, including medications and treatments at each visit;

(3) write, sign, and date progress notes at each visit; and

(4) sign all written orders at the time of the visit and all telephone orders within seven days of the date the order was given.

(c) A physician shall see the resident for all of the following:

- (1) If it is necessary due to a change in the

resident's condition determined by the physician or licensed nursing staff;

(2) if the resident or legal representative requests a physician visit; and

(3) at least annually.

(d) The physician may delegate resident visits to an advanced registered nurse practitioner or a physician assistant.

(e) At admission, the resident or the resident's legal representative shall designate the hospital to which the resident is to be transferred in a medical emergency. If the resident's attending physician does not have admitting privileges at the designated hospital, the facility shall assist the resident or the resident's legal representative in making arrangements with another physician who has admitting privileges to assume the care of the resident during hospitalization. This information shall be available on the resident's clinical record.

(f) Death of resident. The nursing facility shall obtain an order from a physician before allowing the removal of the body of a deceased resident. (Authorized by and implementing K.S.A. 39-932; effective Nov. 1, 1993; amended Feb. 21, 1997; amended Nov. 26, 2001.)

28-39-156. Pharmacy services. The nursing facility shall provide pharmaceutical services including policies and procedures that assure the accurate acquisition, receipt, and administration of all drugs and biologicals to meet the needs of each resident. (a) Supervision by a licensed pharmacist.

(1) A pharmacist shall develop, coordinate, and supervise all pharmacy services.

(2) The pharmacist shall perform a monthly review of the methods, procedures, storage, administration, disposal, and record-keeping of drugs and biologicals.

(3) The pharmacist shall prepare a written report which includes recommendations for the administrator after each monthly review.

(b) Ordering and labeling.

(1) All drugs and biologicals shall be ordered pursuant to a written order issued by a licensed physician.

(2) The dispensing pharmacist shall label each prescription container in accordance with K.A.R. 68-7-14.

(3) Over-the-counter drugs. The facility shall ensure that any over-the-counter drug delivered to the facility is in the original, unbroken manufacturer's package. The pharmacist or licensed

nurse shall place the full name of the resident on the package. If over-the-counter drugs are removed from the original manufacturer's package other than for administration, the pharmacist shall label the drug as required for prescription drugs.

(4) Physicians, advanced registered nurse practitioners, and physician assistants shall give verbal orders for drugs only to a licensed nurse, pharmacist or another physician. The licensed nurse, physician, or pharmacist shall immediately record the verbal order in the resident's clinical record. The physician shall counter-sign all verbal orders within seven working days after receipt of the verbal order.

(c) Automatic stop orders. Drugs not specifically limited as to time or number of doses when ordered shall be controlled by automatic stop orders in accordance with written policies of the facility. A licensed nurse shall notify the physician of an automatic stop order before the administration of the last dose so that the physician may decide if additional drug is to be ordered.

(d) Storage.

(1) The licensed pharmacist shall ensure that all drugs and biologicals are stored according to state and federal laws.

(2) The nursing facility shall store all drugs and biologicals in a locked medication room or a locked medication cart located at the nurses' station. Only the administrator and persons authorized to administer medications shall have keys to the medication room or the medication cart.

(3) The nursing facility shall store drugs and biologicals under sanitary conditions.

(4) The temperature of the medication room shall not exceed 85°F. The nursing facility shall store drugs and biologicals at the temperatures recommended by the manufacturer.

(e) The nursing facility shall develop and implement policies and procedures to assure that residents who self-administer drugs do so safely and accurately.

(f) Accountability and disposition. The nursing facility shall control and dispose of drugs and biologicals in a manner that ensures the safety of the resident.

(1) The nursing facility shall maintain records of receipt and disposition of all controlled substances in order that there can be an accurate reconciliation.

(2) The licensed pharmacist shall determine whether the records of drug and biological administration are in order and that an accurate ac-

count of all controlled substances was maintained and reconciled.

(3) The licensed pharmacist shall identify any deteriorated, outdated, or discontinued drugs and biologicals and any drugs or biologicals that are unused remaining from a discharged or deceased resident during the monthly pharmacy services review. The licensed pharmacist shall destroy, if appropriate, any deteriorated, outdated, unused, or discontinued drugs and biologicals at the nursing facility and in the presence of one witness who is a licensed nurse employed by the facility. A record shall be on file in the facility which contains the date, drug name, quantity of drugs and biologicals destroyed, and signatures of the pharmacist and licensed nurse.

(4) The nursing facility shall return to the dispensing pharmacy any drugs and biologicals which have been recalled and shall maintain documentation of this action in the facility.

(5) Staff members who have authority to administer drugs may provide drugs to residents or a responsible party during short-term absences from the facility.

(A) A staff member who has the authority to administer drugs may transfer drugs to a suitable container.

(B) The staff member preparing the drugs shall provide written instructions for the administration of the drugs to the resident or responsible party.

(6) The staff member preparing the drugs shall document the drugs provided and the instructions given in the resident's clinical record.

(7) The nursing facility may send drugs with a resident at the time of discharge, if so ordered by the physician.

(g) Drug regimen review.

(1) The licensed pharmacist shall review the drug regimen of each resident at least monthly.

(2) The licensed pharmacist shall document in the resident's clinical record that the drug regimen review has been performed.

(3) The licensed pharmacist shall report any irregularities to the attending physician, the director of nursing, and the medical director. The pharmacist or a licensed nurse shall act upon any responses by the physician to the report.

(4) The pharmacist shall document the drug regimen review in the resident's clinical record or on a drug regimen report form. A copy of the drug regimen review shall be available to the department.

(5) Any deviation between drugs ordered and drugs given shall be reported to the quality assessment and assurance committee.

(h) Emergency drug kits. A nursing facility may have an emergency drug kit available for use when needed.

(1) The medical director, director of nursing, and licensed pharmacist shall determine the contents of the emergency drug kit. The contents of the kit shall be periodically reviewed and drugs added and deleted as appropriate. Written documentation of these determinations shall be available in the facility.

(2) Policies and procedures shall be available for the use of the emergency drug kit.

(3) The facility shall have a system in place which ensures that drugs used from the emergency drug kit are replaced in a timely manner.

(4) The emergency drug kit shall be in compliance with K.A.R. 68-7-10 (d). (Authorized by and implementing K.S.A. 39-932; effective Nov. 1, 1993; amended Feb. 21, 1997.)

28-39-157. Specialized rehabilitation services. Each nursing facility shall provide or obtain rehabilitative services for residents, including physical therapy, speech-language pathology, audiology, and occupational therapy. (a) Provision of services. If specialized rehabilitative services are required in the resident's comprehensive plan of care, the facility shall:

(1) Provide the required services; or

(2) obtain the required services from an outside resource in accordance with K.A.R. 28-39-163 (h), from a provider of specialized rehabilitation services.

(b) Qualified personnel shall provide specialized rehabilitation services under the written order of a physician.

(c) The facility shall develop policies and procedures for the provision of specialized rehabilitation services. (Authorized by and implementing K.S.A. 39-932; effective Nov. 1, 1993; amended Feb. 21, 1997.)

28-39-158. Dietary services. The nursing facility shall provide each resident with nourishing, palatable, attractive, non-contaminated foods that meet the daily nutritional and special dietary needs of each resident. A facility that has a contract with an outside food management company shall be found to be in compliance with this regulation if the company meets the requirements of these regulations. (a) Staffing.

(1) Overall supervisory responsibility for the dietetic services shall be the assigned responsibility of a full-time employee who is a licensed dietitian or a dietetic services supervisor who receives regularly scheduled onsite supervision from a licensed dietitian. The nursing facility shall provide sufficient support staff to assure adequate time for planning and supervision.

(2) The nursing facility shall implement written policies and procedures for all functions of the dietetic services department. The policies and procedures shall be available for use in the department.

(b) Menus and nutritional adequacy.

(1) Menus shall meet the nutritional needs of the residents in accordance with:

(A) each resident's comprehensive assessment;

(B) the attending physician's orders; and

(C) the recommended dietary allowances of the food and nutrition board of the national research council, national academy of sciences as published in *Recommended Dietary Allowances*, 10th ed., 1989.

(2) Menus for all diets and therapeutic modifications shall be written at least two weeks in advance of service and shall be approved by a licensed dietitian.

(3) Menus shall ensure that not less than 20 percent of the total calorie intake is served at one meal.

(4) When a substitution is necessary, the substitute shall be of similar nutritive value, recorded, and available for review.

(5) Menus shall be followed.

(6) The nursing facility shall keep on file and available for review records of the foods purchased and meals and snacks actually served for 3 months.

(c) Food. Each facility shall comply with the following provisions.

(1) Dietary service staff shall prepare the food by methods that conserve nutritive value, flavor, appetizing aroma, and appearance.

(2) Food shall be attractive, flavorful, well-seasoned, and served at the proper temperature.

(A) Before serving, the facility shall hold hot foods at 140°F or above.

(B) Hot foods, when served to the resident, shall not be below 115°F.

(C) The facility shall hold and serve cold foods that are potentially hazardous at not more than 45°F.

(3) The facility shall prepare the food using standardized recipes adjusted to the number of residents served.

(4) The facility shall prepare the food in a form designed to meet individual resident needs.

(5) When a resident refuses a food served, the facility shall serve the resident food of similar nutritive value as a substitute.

(d) Therapeutic diets.

(1) The attending physician shall prescribe any therapeutic diets.

(2) A current diet manual approved by the licensed dietitian shall be available to attending physicians, nurses, and dietetic services personnel. The facility shall use the manual as a guide for writing menus for therapeutic diets.

(e) Frequency of meals.

(1) Each resident shall receive and the facility shall:

(A) Provide at least three meals daily, at regular times;

(B) offer nourishment at bedtime to all residents unless clinically contra-indicated; and

(C) provide between-meal nourishments when clinically indicated or requested when not clinically contra-indicated.

(2) There shall be no more than 14 hours' time between a substantial evening meal and breakfast the following day, except when a nourishing snack is provided at bedtime, in which instance 16 hours may elapse. A nourishing snack shall contain items from at least 2 food groups.

(f) Assistive devices. Each facility shall provide, based on the comprehensive assessment, special eating equipment and utensils for residents who need them.

(g) Sanitary conditions. Each facility shall comply with the following provisions.

(1) The facility shall procure all foods from sources approved or considered satisfactory by federal, state and local authorities.

(2) The facility shall store, prepare, display, distribute, and serve foods to residents, visitors and staff under sanitary conditions.

(A) The facility shall keep potentially hazardous foods at a temperature of 45°F or 7°C or lower, or at a temperature of 140°F or 60°C or higher.

(B) The facility shall provide each mechanically refrigerated storage area with a numerically scaled thermometer, accurate to +plus or -minus 3°F or 1.5°C, which is located to measure the

warmest part of the storage area and is easily readable.

(C) The facility shall keep frozen food frozen and shall store the food at a temperature of not more than 0°F.

(D) The facility shall store each prepared food, dry or staple food, single service ware, sanitized equipment, or utensil at least six inches or 15 centimeters above the floor on clean surfaces and shall protect the food from contamination.

(E) The facility shall store and label containers of poisonous compounds or cleaning supplies and keep the containers in areas separate from those used for food storage, preparation and serving.

(F) The facility shall cover, label, and date each food item not stored in the original product container or package.

(G) The facility shall tightly cover and date each opened food item stored in the original product container or package.

(H) The facility shall not store prepared foods, dry or staple foods, single service ware, sanitized equipment or utensils and containers of food under exposed or unprotected sewer lines or water lines, except for automatic fire protection sprinkler heads. The facility shall not store food and service equipment or utensils in toilet rooms.

(I) The facility shall store food not subject to further washing or cooking before serving in a way that protects the food against cross-contamination.

(J) The facility shall not store packaged food subject to entry of water in contact with water or undrained ice.

(3) The facility shall prepare and serve food:

(A) with the least possible manual contact;

(B) with suitable utensils; and

(C) on surfaces that have been cleaned, rinsed and sanitized before use to prevent cross-contamination.

(4) The facility shall not prepare or serve food from containers with serious defects.

(5) The facility shall thoroughly wash each raw fruit and raw vegetable with water before being cooked or served.

(6) With the following exceptions, the facility shall cook potentially hazardous foods which require cooking to at least 145°F.

(A) The facility shall cook poultry, poultry stuffings, stuffed meats and stuffing containing meat to a minimum temperature of 165°F in all

parts of the food with no interruption of the cooking process.

(B) The facility shall cook pork and any food containing pork to a minimum temperature of 150°F in all parts of the food.

(C) The facility shall cook ground beef and any food containing ground beef to at least 155°F in all parts of the food.

(7) When foods in which dry milk has been added are not cooked, the foods shall be consumed within 24 hours.

(8) The facility shall use only pasteurized fresh milk as a milk beverage and shall transfer to a glass directly from a milk dispenser or original container. When clinically indicated, non-fat dry milk may be added to fresh milk served to a resident.

(9) The facility shall use only clean whole eggs, with shells intact and without cracks or checks, or pasteurized liquid, frozen, or dry eggs or egg products, or commercially prepared and packaged hard cooked, peeled eggs. All eggs shall be cooked.

(10) The facility shall reheat rapidly potentially hazardous foods that have been cooked and then refrigerated to a minimum of 165°F throughout before being served or before being placed in a hot food storage unit.

(11) The facility shall use metal stem-type numerically scaled thermometers, accurate to +plus or -minus 3°F to assure the attainment and maintenance of proper internal cooking, holding, or refrigeration temperatures of potentially hazardous foods.

(12) The facility shall thaw potentially hazardous foods:

(A) Under refrigeration;

(B) under cold running water;

(C) in a microwave when the food will be immediately cooked; or

(D) as part of the cooking process.

(h) Service. The facility shall:

(1) provide dining room service for all capable residents;

(2) provide ice for beverages which shall be handled in a manner which prevents contamination;

(3) Cover food distributed for room service and to dining rooms not adjacent to the dietetic services department; and

(4) Protect food on display from contamination by the use of packaging or by the use of easily

cleanable counter, serving line or salad bar protective devices or other effective means.

(i) Dietary employees shall:

(1) Thoroughly wash their hands and exposed portions of their arms with soap and water before starting work, during work as often as necessary to keep them clean, and after smoking, eating, drinking, or using the toilet. Employees shall keep their fingernails clean and trimmed;

(2) wear clean outer clothing;

(3) use effective hair restraints to prevent contamination of food and food-contact surfaces;

(4) taste food in a sanitary manner;

(5) use equipment and utensils constructed from and repaired with safe materials;

(6) clean and sanitize equipment and utensils after each use;

(7) use clean, dry cloths or paper used for no purpose but for wiping food spills on tableware such as plates or bowls; and

(8) use cloths or sponges for wiping food spills on food and non-food contact surfaces which are clean, rinsed frequently in a sanitizing solution and stored in the sanitizing solution which is maintained at an effective concentration.

(j) The facility shall ensure that only persons authorized by the facility are in the dietary services area or areas.

(k) The facility shall ensure that the food preparation area is not used as a dining area.

(l) Cleaning procedures. The facility shall:

(1) Establish and follow cleaning procedures to ensure that all equipment and work areas, including walls, floors, and ceilings are clean;

(2) Perform cleaning and sanitizing of tableware and equipment by immersion, spray-type, or low-temperature dishwashing machines used according to the manufacturer's directions. Rinse temperature in hot water machines shall be a minimum of 160°F at the dish level;

(3) Air dry all tableware, kitchenware, and equipment;

(4) Store glasses and cups in an inverted position;

(5) Cover or invert other stored utensils;

(6) Provide for storage of knives, forks, and spoons so that the handle is first presented;

(7) Provide mops and mop pails for exclusive use in the dietary department;

(8) Provide a lavatory with hot and cold running water, soap, and single-service towels or a mechanical hand drying device in dietetic services;

(9) Dispose of waste in a sanitary manner via a food disposal or in clean containers with tight-fitting covers; and

(10) Cover waste containers except when in continuous use. (Authorized by and implementing K.S.A. 39-932; effective Nov. 1, 1993; amended Feb. 21, 1997.)

28-39-159. Dental Services. Each nursing facility shall assist residents in obtaining routine and 24-hour emergency dental care. The facility shall: (a) Maintain a list of available dentists for residents who do not have a dentist;

(b) assist residents, if requested or necessary, in arranging for appropriate dental services; and

(c) assist residents in arranging transportation to and from the dentist's office. (Authorized by and implementing K.S.A. 39-932; effective Nov. 1, 1993; amended Feb. 21, 1997.)

28-39-160. Other resident services. (a) Special care section. A nursing facility may develop a special care section within the nursing facility to serve the needs of a specific group of residents.

(1) The facility shall designate a specific portion of the facility for the special care section.

(2) The facility shall develop admission and discharge criteria that identify the diagnosis, behavior, or specific clinical needs of the residents to be served. The medical diagnosis, physician's progress notes, or both shall justify admission to the section.

(3) A written physician's order shall be required for placement.

(4) Direct care staff shall be present in the section at all times.

(5) Before admission to a special care section, the facility shall inform the resident or resident's legal representative in writing of the services and programs available in the special care section that are different from those services and programs provided in the other sections of the facility.

(6) The facility shall provide a training program for each staff member before the member's assignment to the section. Evidence of completion of the training shall be on file in the employee's personnel records.

(7) The facility shall provide in-service training specific to the needs of the residents in the special care section to staff at regular intervals.

(8) The facility shall develop and make available to the clinical care staff policies and procedures for operation of the special care section.

(9) The facility shall provide a substation for use by the direct care staff in the special care section. The design of the substation shall be in accordance with the needs of the special care section and shall allow for visibility of the corridors from that location.

(10) Staff in the section shall be able to observe and hear resident and emergency call signals from the corridor and nurse substation.

(11) The facility shall provide living, dining, activity, and recreational areas in the special care section at the rate of 27 square feet per resident, except when residents are able to access living, dining, activity, and recreational areas in another section of the facility.

(12) The comprehensive resident assessment shall indicate that the resident would benefit from the program offered by the special care section.

(13) The resident comprehensive care plan shall include interventions that effectively assist the resident in correcting or compensating for the identified problems or need.

(14) Control of exits shall be the least restrictive possible for the residents in the section.

(b) Adult day care. A nursing facility may provide adult day care services to any individual whose physical, mental, and psychosocial needs can be met by intermittent nursing, psychosocial, and rehabilitative or restorative services.

(1) The nursing facility shall develop written policies and procedures for provision of adult day care services.

(2) The nursing facility shall develop criteria for admission to and discharge from the adult day care service.

(3) The nursing facility shall maintain a clinical record of services provided to clients in the adult day care program.

(4) The provision of adult day care services shall not adversely affect the care and services offered to residents of the facility.

(c) Respite care. A nursing facility may provide respite care to individuals on a short-term basis of not more than 30 consecutive days.

(1) The facility shall develop policies and procedures for the provision of respite care.

(2) All requirements for admission of a resident to a nursing facility shall be met for an individual admitted for respite care.

(3) The facility may obtain an order from the resident's physician indicating that the resident may return to the facility at a later date for respite care.

(A) The facility may identify the resident's clinical record as inactive until the resident returns.

(B) Each time the resident returns to the facility for subsequent respite services, the resident's physician shall review the physician plan of care and shall indicate any significant change that has occurred in the resident's medical condition since the previous stay.

(C) The facility shall review and revise the comprehensive assessment and care plan, if needed.

(D) The facility shall conduct a comprehensive assessment after any significant change in the resident's physical, mental, or psychosocial functioning and not less often than once a year.

(E) Any facility with a ban on admissions shall not admit or readmit residents for respite care. (Authorized by and implementing K.S.A. 39-932; effective Nov. 1, 1993; amended Feb. 21, 1997; amended Oct. 8, 1999.)

28-39-161. Infection control. Each nursing facility shall establish and maintain an infection control program designed to provide a safe, sanitary, and comfortable environment for residents and to prevent the development and transmission of disease and infection.

(a) Each facility shall establish an infection control program under which the facility meets the following requirements:

(1) Prevents, controls, and investigates infections in the facility;

(2) develops and implements policies and procedures that require all employees to adhere to universal precautions to prevent the spread of blood-borne infectious diseases based on "universal precautions for prevention of transmission of human immunodeficiency virus, hepatitis B virus, and other bloodborne pathogens in health-care settings," as published in the morbidity and mortality weekly report, June 24, 1988, vol. 37 no. 24 and CDC guidelines for "handwashing and hospital environmental control," as published in November 1985, are hereby adopted by reference;

(3) develops and implements policies and procedures related to isolation of residents with suspected or diagnosed communicable diseases based on the centers for disease control "guideline for isolation precautions in hospitals," as published in January 1996, which is hereby adopted by reference;

(4) develops policies and procedures related

to employee health based on the centers for disease control "guideline for infection control in hospital personnel," as published in August 1983, which is hereby adopted by reference;

(5) assures that at least one private room that is well ventilated and contains a separate toilet facility is designated for isolation of a resident with an infectious disease requiring a private room. The facility shall develop a policy for transfer of any resident occupying the designated private room to allow placement of a resident with an infectious disease requiring isolation in the private room designated as an isolation room;

(6) includes in the orientation of new employees and periodic employees in-service information on exposure control and infection control in a health care setting; and

(7) maintains a record of incidents and corrective actions related to infection that is reviewed and acted upon by the quality assessment and assurance committee.

(b) Preventing the spread of infection.

(1) When a physician or licensed nurse determines that a resident requires isolation to prevent the spread of infection, the facility shall isolate the resident according to the policies and procedures developed.

(2) The facility shall prohibit employees with a communicable disease or infected skin lesions from coming in direct contact with residents, any resident's food, or resident care equipment until the condition is resolved.

(3) Tuberculosis skin testing shall be administered to each new resident and employee as soon as residency or employment begins, unless the resident or employee has documentation of a previous significant reaction. Each facility shall follow the centers for disease control recommendations for "prevention and control of tuberculosis in facilities providing long-term care to the elderly," as published in morbidity and mortality weekly report, July 13, 1990.

(4) Staff shall wash their hands after each direct resident contact for which handwashing is indicated by the centers for disease control guideline for "handwashing and hospital environmental control," as published in November 1985, which is hereby adopted by reference.

(c) Linens and resident clothing.

(1) The facility shall handle soiled linen and soiled resident clothing as little as possible and with minimum agitation to prevent gross micro-

bial contamination of air and of persons handling the items.

(2) The facility shall place all soiled linen and resident clothing in bags or in carts immediately at the location where they were used. The facility shall not sort and pre-rinse linen and resident clothing in resident-care areas.

(3) The facility shall deposit and transport linen and resident clothing soiled with blood or body fluids in bags that prevent leakage.

(4) The facility shall wash linen with detergent in water of at least 160°F. The facility shall follow the manufacturers' operating directions for washing equipment.

(5) The facility may choose to wash linens and soiled resident clothing in water at less than 160°F if the following conditions are met:

(A) Temperature sensors and gauges capable of monitoring water temperatures to ensure that the wash water does not fall below 72°F are installed on each washing machine.

(B) The chemicals used for low temperature washing emulsify in 70°F water.

(C) The supplier of the chemical specifies low-temperature wash formulas in writing for the machines used in the facility.

(D) Charts providing specific information concerning the formulas to be used for each machine are posted in an area accessible to staff.

(E) The facility ensures that laundry staff receive in-service training by the chemical supplier on a routine basis, regarding chemical usage and monitoring of wash operations.

(F) Maintenance staff monitors chemical usage and wash water temperatures at least daily to ensure conformance with the chemical supplier's instructions.

(6) The facility shall use methods for transport and storing of clean linen that will ensure the cleanliness of the linens. (Authorized by and implementing K.S.A. 39-932; effective Nov. 1, 1993; amended Feb. 21, 1997; amended Oct. 8, 1999.)

28-39-162. Nursing facility physical environment; construction and site requirements. Each nursing facility shall be designed, constructed, equipped, and maintained to protect the health and safety of residents, personnel, and the public. (a) All new construction and modifications shall comply with building codes, ordinances, and regulations enforced by city, county, or state jurisdictions.

(1) Where codes, ordinances, and regulations

are not in effect, the owner shall conform to the uniform building code, as in effect in 1991.

(2) New construction, modifications and equipment shall conform to the following codes and standards:

(A) Title III of the Americans with disabilities act, 42 U.S.C. 12181, effective as of January 26, 1992; and

(B) "Food service sanitation manual," health, education, and welfare (HEW) publication no. FDA 78-2081, as in effect on July 1, 1981.

(b) Site requirements. The location and development of a site upon which a facility is to be constructed, or an existing facility expanded, or an existing building converted for use as an adult care home, shall meet the following physical requirements:

(1) Site location. The general location of the site shall be:

(A) Served by all-weather roads or streets;

(B) accessible to physician services, fire and other emergency services, medical facilities, churches, and population centers where employees can be recruited and retained;

(C) sufficiently remote from noise sources which would cause day or night average sound levels to exceed 65 decibels. The average day or night sound level shall be the A-weighted energy equivalent sound level for a 24-hour period with an additional 10 decibel weighting imposed on the equivalent sound level occurring during the nighttime hours of the following day (10:00 p.m. to 7:00 a.m.). For the purposes of this regulation the term decibel is a unit for measuring the volume of a sound equal to 20 times the logarithm to the base 10 of the ratio of the pressure of sound measured to the reference pressure which is 20 micropascals. Fast time averaging and A-measurements shall be made four feet 11 inches or 1.5 meters above ground level at a site location, six feet seven inches or two meters from the exterior wall of the existing or proposed building, on that side nearest the predominant noise source. If the proposed building location is unknown, the person testing the noise levels shall take measurements at a point six feet seven inches or two meters beyond the building setback line in the direction of the predominant noise source. Any noise measurements which are submitted for review shall be performed at the site within 180 days immediately before the date of the application for site approval. The department shall give consideration to the presence of time varying or seasonal noise sources

during the selection of measurement periods in order to provide an accurate assessment of the noise environment of the site. The 24-hour measurement periods selected shall be representative of the maximum noise source activities likely to be encountered during any weekly period;

(D) free from noxious and hazardous fumes;

(E) at least 4,000 feet from concentrated livestock operations, including shipping areas, or holding pens;

(F) free of flooding for a 100-year period; and

(G) sufficient in area and configuration to accommodate the facility, drives, parking, sidewalks, recreational area, and community zoning restrictions.

(2) Site development. Development of the site shall conform to the following provisions.

(A) Final grading of the site shall provide topography for positive surface drainage away from the building and positive protection and control of surface drainage and freshets from adjacent areas.

(B) The facility shall provide off-street parking at a rate of six parking spaces for the first 3,000 square feet or 279 square meters of gross floor area of the facility, plus one additional parking space for each additional 1,000 square feet or 93 square meters of gross floor area of the facility.

(C) The facility shall provide parking spaces, sized and signed as reserved for the physically disabled, conforming to title III of the Americans with disabilities act, 42 U.S.C. 12181, effective as of January 26, 1992.

(D) All drives and parking areas shall be surfaced with a smooth all-weather finish. The facility shall not use unsealed gravel.

(E) Except for lawn or shrubbery which the facility may use in landscape screening, the facility shall provide an unencumbered outdoor area of at least 50 square feet or 4.65 square meters per bed for recreational use and shall so designate this area on the plot plan. The licensing agency may approve equivalent facilities provided by terraces, roof gardens, or similar structures for facilities located in high density urban areas. (Authorized by and implementing K.S.A. 39-932; effective Nov. 1, 1993; amended Feb. 21, 1997.)

28-39-162a. Nursing facility physical environment; general requirements. (a) Except for a detached boiler, equipment room, laundry room, and storage spaces for yard and maintenance equipment and supplies and flammables,

all units, areas, and rooms of the facility shall be within a single building under one roof and shall, at a minimum, contain the units, areas, and rooms listed in subsections (b) through (p) of this regulation.

(b) Nursing unit. A nursing unit shall consist of 60 or fewer beds with the following areas and rooms. Any facility constructed after February 15, 1977 shall have at least 80 percent of the beds located in rooms designed for one and two beds and at least five percent of the beds located in one-bed rooms, each equipped with a private toilet. A nursing unit shall contain the following areas and rooms:

(1) Resident rooms. Each resident room shall meet the following requirements.

(A) Each room shall accommodate not more than four residents.

(B) The minimum room area, exclusive of toilet rooms, closets, lockers, wardrobes, other built-in fixed items, alcoves, and vestibules, shall measure 100 square feet in one-bed rooms and 80 square feet per bed in multi-bed rooms. Facilities licensed before January, 1963 shall provide a minimum floor area per bed as follows:

- (i) One-bed rooms, 90 square feet per bed;
- (ii) two-bed rooms, 80 square feet per bed; and
- (iii) three- to four-bed rooms, 70 square feet per bed.

(C) Each resident room shall have direct access to a corridor.

(D) Each bed in a multi-bed room shall have ceiling-suspended curtains that extend around the bed to provide total visual privacy in combination with adjacent walls and curtains.

(E) Curtain material shall be launderable and flame retardant.

(F) Each resident room shall have at least one window that opens for ventilation. The window area shall not be less than 12 percent of the gross floor area of the resident room. Interior window stool height shall not exceed three feet above the floor and shall be at least two feet six inches above exterior grade. Facilities constructed before February 15, 1977 shall not be required to comply with this paragraph.

(G) Each resident room shall have a floor at or above grade level. Any facility constructed before the effective date of these regulations shall not be required to comply with this paragraph.

(H) Room configuration shall be adequate to permit the beds to align parallel to the exterior

wall with a minimum of three feet of clearance from the sides and foot of the beds to the nearest fixed obstruction. The room configuration shall be designed so that beds are not located more than two deep from the exterior window wall. Any facility constructed before February 15, 1977 shall not be required to meet the specifications in this paragraph.

(I) Each resident room shall have a separate bed for each resident. The bed shall be of appropriate size and height and shall contain the following:

- (i) A clean, comfortable mattress; and
- (ii) bedding appropriate to the weather and needs of the resident.

(J) Each resident room shall have functional furniture appropriate to the resident's needs.

(K) The facility shall provide an individual space in a fixed closet or wardrobe with doors for each bed. Closets shall have, for each bed, a minimum floor area of five square feet, a minimum depth of one foot 10 inches, and a separated shelf and hanging rod of not less than two feet six inches. At least one foot three inches of the hanging rod shall have sufficient clearance for full-length garments. The hanging rods and shelves shall be accessible to the resident. Facilities constructed before February 15, 1977 shall provide a fixed closet or wardrobe with a shelf and hanging rod accessible to residents.

(2) Toilet facility. A toilet room shall serve not more than four beds and shall be accessible without entry from the general corridor. A toilet room shall contain a toilet and a lavatory, unless a lavatory is provided in each resident room.

(A) The minimum area of a toilet room serving a resident room shall be 30 square feet with sufficient turning radius for a wheelchair.

(B) If a bathing unit is included, the facility shall provide additional space. Space occupied by the bathing unit shall not be included in the minimum dimensions stated in this regulation.

(C) Any facility constructed before February 15, 1977 shall provide the resident with access to toilet and bathing facilities from the general corridor or shall provide direct access from the resident room to toilet and bathing facilities.

(3) Each resident room in any facility constructed after February 15, 1977 shall not be located more than 150 feet from the nursing service areas required by subsection (c) of this regulation. Distance shall be measured from one foot outside the resident room door along the shortest line, in

the general corridor where the resident room appears, to within one foot of the designated service area.

(4) Resident call system.

(A) The facility shall provide each resident bed with a resident call button that shall register at the nurses' station with a common audible signal and a visual signal. Any facility constructed after May 1, 1982 shall provide a visual signal indicating the resident room number at the nurses' station.

(B) A visual signal shall be located at the resident room corridor door.

(C) The facility shall provide visual and audible signals in clean and soiled workrooms and in the medication preparation rooms. Any facility constructed before May 1, 1982 shall not be required to provide audible signals in clean and soiled workrooms and medication preparation rooms.

(D) In multi-corridor units, the facility shall install additional visible signals at corridor intersections if the facility was constructed after February 15, 1977.

(E) The facility shall install a resident emergency call button next to each toilet, shower, and bathtub accessible to residents.

(F) In any facility constructed after May 1, 1982, the emergency call system shall be operated by a cord pull that, when activated, turns on a light of a different color from that of the resident call system, over the corridor door at the site of the emergency.

(i) When the emergency call system is activated, it shall produce a rapidly flashing light and a repeating audible signal in the nurses' station, clean workroom, soiled workroom, and medication preparation rooms. Facilities constructed before May 1, 1982 shall not be required to have an audible signal or a rapidly flashing light.

(ii) The signals produced by the emergency call system shall be obviously different from those produced by the resident call system. Facilities constructed before May 1, 1982 shall not be required to have a different signal for the emergency call system.

(iii) The emergency call system shall continue to operate until it is manually reset at the site of origin.

(G) Resident call systems may include two-way voice communication. When a two-way system is used, it shall include all functions required in paragraph (b)(4) of this regulation and shall be

equipped with an indicating light at each calling station that lights and remains lighted as long as the value circuit is operating.

(H) Each facility may use a wireless system to meet the requirements of this regulation, if the system meets both of the following criteria:

(i) When the resident call system is activated, an electronic device notifies direct care staff of the location at which the resident call system was activated.

(ii) Each nurses' station is equipped with a system that registers and documents the location of an activated resident call system.

(I) The resident call system selected shall be designed to ensure that staff are notified promptly if a resident is in need of assistance.

(c) Service areas or rooms. The service areas or rooms required in this regulation shall be located in each nursing unit and shall be accessible directly from the general corridor without passage through an intervening room or area, except medication preparation rooms. A service area or room shall not serve more than one nursing unit, except as otherwise indicated. The service areas and rooms specified shall provide space and equipment as prescribed in this regulation.

(1) Nurses' station.

(A) A nurses' station shall provide space for charting, records, a telephone, a resident call system, and an emergency call system signal register for rooms on the nursing unit.

(B) The nurses' station shall be located so that the corridors outside the doors of resident rooms are visible from the nurses' station. The facility may use television cameras and monitors to meet this requirement. Facilities constructed before February 15, 1977 shall not be required to comply with the requirements of this paragraph.

(2) Medication preparation room.

(A) A medication preparation room shall be equipped with the following:

(i) A work counter, lavatory or countertop sink, a refrigerator, and shelf space for separate storage and maintenance of residents' medications;

(ii) a door visible from the nurses' station, except any facility licensed before January, 1963; and

(iii) a door equipped with self-locking hardware and automatic door closures;

(B) The temperature in the medication room shall not exceed 85°F.

(C) Lighting shall be sufficient to provide 100 foot-candles at counter level.

(D) The medication preparation room shall contain a separate, locked, permanently affixed compartment for storage of controlled substances listed in K.S.A. 65-4107, and amendments thereto, and other drugs that, in the opinion of the consultant pharmacist, are subject to abuse.

(E) A medicine preparation room may serve more than 60 beds when a self-contained medication dispensing unit is used. The self-contained medication dispensing unit may be located at the nurses' station, in the clean workroom, in an alcove, or in other space convenient for staff control.

(3) Clean workroom. The facility shall provide a clean workroom for preparation, handling, storage, and distribution of clean or sterile materials and supplies.

(A) The room shall contain a work counter with sink or separate hand-washing lavatory and adequate shelving and cabinets for storage.

(B) Storage and preparation of food and beverages shall not be permitted in the clean workroom.

(C) The facility may store clean linen supplies in the clean workroom if sufficient shelving, cabinets, or cart-parking space is provided.

(D) Minimum room area shall be 80 square feet, with a minimum length or width of six feet. Any facility constructed before February 15, 1977 shall not be required to meet the requirements of this paragraph.

(E) The facility may provide additional rooms for storage of clean materials or supplies. These additional rooms shall not be required to have a counter or hand-washing facilities.

(4) Soiled workroom. The facility shall provide a soiled workroom for the disposal of wastes, collection of contaminated material, and the cleaning and sanitizing of resident care utensils.

(A) The soiled workroom shall contain a flushing rim clinic sink, a work counter, a two-compartment sink, a storage cabinet with a lock for sanitizing solutions and cleaning supplies used in the cleaning of resident care equipment, a covered waste receptacle, and a covered soiled linen receptacle. Any facility constructed before February 15, 1977 shall have a sink.

(B) Minimum room area shall be 80 square feet with a minimum length or width of six feet. Any facility constructed before February 15, 1977

shall not be required to comply with the requirements of this paragraph.

(C) The facility shall not store clean supplies, equipment, and materials in the soiled workroom.

(5) Clean linen storage. Clean linen storage shall be provided with adequate shelving, cabinets, or cart space, and may be located in the clean workroom required in paragraph (c)(3) of this regulation.

(6) Nourishment area.

(A) Each facility constructed after February 15, 1977 shall provide a nourishment area. The nourishment area shall contain the following:

(i) A sink equipped for hand-washing;

(ii) equipment for serving nourishments between scheduled meals; and

(iii) a refrigerator and storage cabinets.

(B) The nourishment area may be located adjacent to the dietetic service area.

(C) One nourishment area may serve more than one nursing unit. When the nourishment area serves more than one nursing unit, the nourishment area shall be centrally located for easy access from each of the nursing areas served.

(7) Equipment storage room. Each facility constructed after February 15, 1977 shall provide an equipment storage room for the storage of resident care equipment.

(A) The room shall have a minimum space of 120 square feet plus one square foot for each resident bed in the nursing unit.

(B) If mechanical equipment or electrical panel boxes are located in the storage room, the facility shall provide additional space for access and servicing of the equipment.

(8) Wheelchair parking space. Each facility constructed after February 15, 1977 shall provide wheelchair parking space, which shall be out of the path of normal traffic. The space shall not be included in determining the minimum required corridor width.

(9) Resident bathing facilities. The facility shall provide resident bathing facilities at the rate of one for each 15 beds that are not otherwise serviced by bathing facilities within resident rooms. A mechanical bathing unit may be counted as two bathing facilities to meet this requirement.

(A) Bathing facilities shall be located in rooms or areas with access to a toilet and lavatory without entering the general corridor system.

(B) The toilet and lavatory shall be accessible to and usable by the physically disabled and may serve physically disabled visitors.

(C) The toilet enclosure shall be in a visually enclosed area for privacy in use.

(D) Bathing facilities on each nursing unit shall include at least one shower, and there shall be at least one mechanical bathing unit in the facility. Any facility constructed before the effective date of this regulation shall not be required to have a mechanical bathing unit.

(E) Each bathing facility shall be located within a visually enclosed area for privacy during bathing, drying, and dressing with space for an attendant and wheelchair. Any facility constructed before February 15, 1977 shall not be required to provide space for an attendant.

(F) Each shower shall be at least four feet by four feet without curbs and shall be designed to permit use by a resident in a wheelchair. Any facility constructed before February 15, 1977 shall be designed so that showers can be used by a resident in a wheelchair.

(G) The facility shall provide a cabinet with a lock in the bathing area for storage of supplies.

(10) Janitor's closet. The facility shall provide a janitor's closet with a floor receptor or service sink, hot and cold water, a shelf, and provisions for hanging mops. Any facility constructed before February 15, 1977 shall provide at least one janitor's closet in the facility with a floor receptor or service sink, and storage space for janitorial equipment and supplies.

(11) Drinking fountain. The facility shall provide at least one drinking fountain that is accessible to persons in wheelchairs. Any facility constructed before February 15, 1977 shall not be required to provide a drinking fountain.

(12) The facility shall provide a staff toilet room with toilet and lavatory. Any facility constructed before February 15, 1977 shall not be required to provide a staff toilet room.

(d) Living, dining, and recreation areas.

(1) The facility shall provide space for living, dining, assisted dining, and recreation at a rate of 27 square feet per resident. At least 14 square feet of this space shall be utilized for the dining area.

(2) Each facility constructed before February 15, 1977 shall provide space for living, dining, and recreation at a rate of 20 square feet per resident capacity of the facility. At least 10 square feet per resident shall be utilized as dining space.

(3) The facility shall provide window area for living and dining areas at a minimum of 10 percent gross floor area of the living and dining area. The window area requirement shall not be met by

the use of skylights. Windowsill height shall not exceed three feet above the floor for at least $\frac{1}{2}$ of the total window area. Any facility constructed before February 15, 1977 shall not be required to meet the provisions of this paragraph.

(e) Quiet room. Each facility shall provide a quiet room, with a minimum floor area of 80 square feet, unless each resident room in the facility is a one-bed room. Residents shall have access to the quiet room for reading, meditation, solitude, or privacy with family and other visitors. Any facility constructed before February 15, 1977 shall not be required to provide a quiet room.

(f) Examination room. Each facility shall provide an examination room, unless each resident room is a one-bed resident room.

(1) One examination room may serve more than one nursing unit.

(2) Room area shall be a minimum of 120 square feet with a minimum length and width of 10 feet.

(3) The room shall contain either a lavatory or counter and sink equipped for hand washing, an examination table, and a desk or shelf for writing.

(4) The examination room may be located in the rehabilitation therapy room and shall be equipped with cubicle curtains around the space and facilities listed in paragraphs (2) and (3) of this subsection.

(5) If the examination room is located in the rehabilitation therapy room, the facility shall provide additional space appropriate to the functional use of the area.

(6) Any facility constructed before February 15, 1977 shall not be required to provide an examination room.

(g) Rehabilitation therapy room. Each facility shall provide a room for the administration and implementation of rehabilitation therapy.

(1) The facility shall provide a lavatory and an enclosed storage area for therapeutic devices.

(2) Each facility with 60 or fewer beds shall provide a rehabilitation therapy room with a minimum of 200 square feet. Each facility with more than 60 beds shall provide 200 square feet plus two square feet for each additional bed over 60, to a maximum of 655 square feet.

(3) Each facility constructed before February 15, 1977 shall provide a rehabilitation therapy room. The facility shall provide a lavatory and an enclosed storage area for therapeutic devices.

(h) Activities room. Each facility shall provide

an activities room or area for crafts and occupational therapy.

(1) The room shall contain a work counter with a sink equipped for hand washing.

(2) When a room is used for multiple purposes, there shall be sufficient space to accommodate all activities and prevent interference between activities.

(3) Each facility with 60 or fewer beds shall provide a room with a minimum of 200 square feet. Each facility with more than 60 beds shall provide 200 square feet plus two square feet for each additional bed over 60.

(4) The facility shall provide lockable cabinets for storage of supplies.

(5) Each facility constructed before February 15, 1977 shall provide an activities area with a work counter and storage cabinet. A hand-washing facility shall be accessible to residents who use this room or area.

(i) Personal care room. Each facility shall provide a separate room or area for hair care and grooming of residents.

(1) The facility shall provide at least one shampoo sink, space for one hair dryer and work space, and a lockable cabinet for supplies.

(2) Each facility shall provide a room with a size appropriate to the number of residents to be served. The facility shall exhaust room air to the outside.

(3) Each facility constructed before February 15, 1977 shall provide a separate room or area for hair care and grooming of residents. The facility shall provide at least one shampoo sink, space for one hair dryer, and work space.

(j) Administrative and public areas.

(1) Each facility constructed after February 15, 1977 shall provide the following administrative and public areas:

(A) An entrance at grade level to accommodate persons in wheelchairs;

(B) an entrance sheltered from the weather;

(C) a lobby with communication to the reception area or information desk;

(D) a toilet and lavatory accessible to and usable by a person in a wheelchair;

(E) at least one public toilet for each facility of 60 or fewer beds. Each facility of more than 60 beds shall provide at least two public toilets;

(F) a public telephone accessible to a person in a wheelchair;

(G) an administrator's office; and

(H) storage space for supplies and office equipment.

(2) Each facility constructed before February 15, 1977 shall provide the following administrative and public areas:

(A) An entrance at grade level able to accommodate persons in wheelchairs;

(B) one public toilet and lavatory;

(C) one toilet and lavatory accessible to a person in a wheelchair;

(D) a public telephone accessible to a person in a wheelchair; and

(E) a general office for administration.

(k) General storage.

(1) The facility shall provide a general storage room or rooms concentrated in generally one area. The room or rooms shall have an area of no fewer than five square feet per bed.

(2) Each facility constructed before February 15, 1977 shall provide a general storage room or rooms.

(l) Outside storage. The facility shall provide a room that opens to the outside or that is located in a detached building for the storage of tools, supplies, and equipment used for yard and exterior maintenance.

(m) Dietary areas. The facility shall provide dietary service areas that are adequate in relation to the size of the facility. New construction, equipment, and installation shall comply with the standards specified in health, education, and welfare (HEW) 1976 publication no. FDA 78-2081, "food service sanitation manual," hereby adopted by reference. The facility shall design and equip food service facilities to meet the requirements of the residents. A facility shall provide the following elements in a size appropriate to the implementation of the type of food service system employed.

(1) There shall be a control station for receiving food supplies.

(2) There shall be a storage space for food for at least four days.

(3) There shall be food preparation facilities. Conventional food preparation systems shall include space and equipment for preparing, cooking, baking, and serving. Convenience food service systems, including frozen prepared meals, bulk-packaged entrees, individually packaged portions, or a system using contractual commissary services, shall include space and equipment for thawing, portioning, cooking, and baking.

(4) There shall be a two-compartment sink for food preparation. Each facility constructed before

February 15, 1977 shall be required to have a sink for food preparation.

(5) There shall be a lavatory in the food preparation area.

(6) There shall be space for equipment for resident meal service, tray assembly, and distribution.

(7) There shall be a ware-washing area apart from and located to prevent contamination of food preparation and serving areas. The area shall include commercial-type dishwashing equipment. Space shall be provided for receiving, scraping, sorting, and stacking soiled tableware and for transferring clean tableware to the using area.

(8) There shall be a three-compartment deep sink for manual cleaning and sanitizing.

(9) Exhaust ventilation for the ware-washing room and dietary dry storage area shall conform to K.A.R. 28-39-162c, table 1.

(10) There shall be a sanitizing provision for cans, carts, and mobile tray conveyors in any facility constructed after February 15, 1977.

(11) There shall be a waste storage area in a separate room or an outside area that is readily accessible for direct pickup or disposal.

(12) There shall be office workspace for the dietitian or dietetic services supervisor.

(13) A staff toilet and lavatory shall be accessible to the dietary staff.

(14) Each facility constructed after February 15, 1977 shall contain a janitor's closet located within the dietary department, which shall contain a floor receptor or service sink, and storage space for housekeeping equipment and supplies.

(n) On-site laundry.

(1) If the laundry is to be processed on-site, each facility constructed after February 15, 1977 shall comply with the following provisions.

(A) Doors of the laundry rooms shall not open directly onto the nursing unit.

(B) There shall be a soiled laundry receiving, holding, and sorting room accessible from the service corridor or from the outside and furnished with containers with tight-fitting lids for soiled laundry.

(C) There shall be a laundry processing room with commercial-type equipment and with the capability to process laundry sufficient to meet the residents' needs at all times.

(D) The facility shall provide a lavatory in the processing area.

(E) There shall be a janitor's closet containing either a floor receptor or service sink and storage

area for housekeeping equipment and supplies that opens into the laundry processing area.

(F) There shall be a clean laundry handling, storage, issuing, mending, and holding room with egress that does not require passing through the processing or soiled laundry room.

(G) The processing room, soiled laundry room, and clean laundry room shall be physically separate.

(H) The facility shall provide storage space for laundry supplies.

(I) Exhaust ventilation shall conform to K.A.R. 28-39-162c, table 1.

(2) If laundry services are provided on-site in facilities constructed before February 15, 1977, the facility shall comply with the following provisions.

(A) The facility shall provide a laundry processing room with space for receiving, holding, and sorting soiled laundry, and with equipment capable of processing seven days' laundry needs within a regularly scheduled work week. The facility shall keep the soiled and clean laundry functionally separate.

(B) The facility shall provide a space for holding soiled laundry that is exhausted to the outside.

(C) The facility shall provide hand-washing facilities within the laundry area.

(D) The facility shall provide clean laundry processing and storage rooms.

(3) If laundry is to be processed off-site, the following shall be provided:

(A) A soiled laundry holding room that is equipped with containers with tightly fitting lids and that is exhausted to the outside; and

(B) clean laundry receiving, holding, inspection, and storage rooms.

(o) Employees' service areas. Each facility constructed after February 15, 1977 shall provide locker rooms, lounges, toilets, or showers to accommodate the needs of all personnel and volunteers in addition to those required for certain departments.

(p) Janitor's closets. In addition to the janitor's closets required in paragraphs (c)(10) and (m)(1)(E), the facility shall provide sufficient janitor's closets throughout the facility to maintain a clean and sanitary environment.

(1) Each janitor's closet shall contain either a floor receptor or service sink and storage space for housekeeping equipment and supplies.

(2) Each facility constructed before February 15, 1977 shall have at least one janitor's closet.

(q) Engineering service and equipment areas. Each facility constructed after February 15, 1977 shall be equipped with the following areas:

- (1) A maintenance office and shop;
- (2) an equipment room or separate building for boilers, mechanical equipment, and electrical equipment; and
- (3) a storage room for building maintenance supplies. The storage room may be a part of the maintenance shop in facilities of 120 or fewer beds.

(r) Waste processing services. The facility shall provide space and equipment for the sanitary storage and disposal of waste by incineration, mechanical destruction, compaction, containerization, or removal, or by a combination of these techniques. (Authorized by and implementing K.S.A. 39-932; effective Nov. 1, 1993; amended Feb. 21, 1997; amended Oct. 8, 1999.)

28-39-162b. Nursing facility physical environment; details and finishes. (a) Details.

(1) The door on any room containing a bathing facility or toilet shall be capable of being opened from the outside.

(2) The doors to each bathing and toileting room with direct access from a resident bedroom shall be capable of opening outward or shall be designed to allow ingress to the room without pushing against a resident who may have collapsed in the room.

(3) The minimum width of each door to rooms needing access for beds or stretchers shall be three feet eight inches.

(4) Each door to resident toilet rooms and other rooms needing access for wheelchairs shall have a minimum width of three feet.

(5) Each door on any opening between corridors and spaces subject to occupancy, except elevator doors, shall be swing-type.

(6) A maximum of five percent of doors from resident bedrooms to the corridor may be "dutch door" cut for physician-prescribed control of disoriented residents. The doors shall meet the requirements for dutch doors prescribed by the national fire protection association, 101, "Life Safety Code" 1991 edition.

(7) The minimum width of each corridor in any resident use area shall be eight feet. The minimum clear width of each corridor in any service area shall be six feet.

(8) The facility shall provide an insect screen for each window and outer door which may be left

in an open position. Each window shall be designed to prevent accidental falls when open or shall be equipped with a security screen.

(9) Doors shall not swing into corridors except doors to spaces such as small closets which are not subject to occupancy. Large walk-in closets shall be considered occupiable spaces.

(10) Each door, sidelight, borrowed light, and window in which the glazing is within 18 inches of the floor, thereby creating the possibility of accidental breakage by pedestrian traffic, shall be glazed with safety glass, wire glass, or plastic glazing material that will resist breaking and will not create dangerous cutting edges if broken. The facility shall provide similar materials in wall openings of recreation rooms and exercise rooms unless required otherwise for fire safety.

(11) The facility shall use safety glass or plastic glazing materials as described in paragraph (a) (10) of this regulation for shower doors and bath enclosures.

(12) The facility shall provide grab bars at all residents' toilets, showers, tubs, and sitz baths.

(A) The bars shall have 1½ inches clearance to walls and shall have sufficient strength and anchorage to sustain a concentrated load of 250 pounds.

(B) Ends of grab bars shall be returned to the wall at each termination.

(13) If soap dishes are provided in showers and bathrooms, they shall be recessed.

(14) The facility shall provide handrails on both sides of corridors used by residents.

(A) The facility shall provide a clear distance of 1½ inches between the handrail and the wall.

(B) Ends of handrails shall be returned to the wall at each termination.

(C) Handrails shall not be considered an obstruction in measuring the clear width of corridors.

(15) The facility shall provide enclosed single-issue paper towel dispensers or mechanical hand-drying devices at all lavatories.

(16) Ceiling heights in facilities constructed after February 15, 1977 shall meet the following requirements.

(A) Boiler rooms shall have ceiling clearances not less than two feet six inches above the main boiler header and connecting piping.

(B) Rooms containing ceiling-mounted equipment shall be of sufficient height to accommodate the proper functioning, repair, and servicing of the equipment.

(C) All other rooms shall have a ceiling height of not less than eight feet, except that corridors, storage rooms, toilet rooms, and other minor rooms shall not be less than seven feet eight inches in height. Suspended tracks, rails, and pipes located in the path of normal traffic shall not be less than six feet eight inches above the floor.

(17) Recreation rooms, exercise rooms, and similar spaces where impact noises may be generated shall not be located directly over resident bed areas, unless the facility makes special provisions to minimize these noises. This requirement shall not apply to facilities constructed before February 15, 1977.

(18) Rooms containing heat-producing equipment, such as boiler or heater rooms and laundries, shall be insulated and ventilated to prevent any floor surface above the area from exceeding a temperature of 10° F or 6° C above the ambient room temperature.

(19) Sound transmissions criteria for partitions, floors and ceiling construction in resident areas shall meet the requirements as prescribed in "Guidelines for Construction and Equipment of Hospitals and Medical Facilities," published in 1993 by the American institute of architects press, section 7.28, table 1. This requirement shall apply to each facility constructed after May 1, 1982.

(b) Finishes.

(1) Each facility constructed after February 15, 1977 shall have finishes which meet the following requirements.

(A) Floor materials shall be easily cleanable and have wear resistance appropriate for the location involved. Floors in areas used for food preparation or food assembly shall be water-resistant and grease-proof.

(B) Joints in tile and similar material in food areas shall be resistant to food acids.

(C) In areas subject to frequent wet cleaning methods, floor materials shall not be physically affected by germicidal and cleaning solutions.

(D) Floors that are subject to traffic while wet, including showers and bath areas, kitchens and similar work areas, shall have a non-slip surface.

(E) Each wall base in kitchens, soiled work-rooms, soiled utility rooms, janitor's closets, laundries, and resident bathrooms shall be made integral and shall be coved with the floor, tightly sealed, and constructed without voids that can harbor insects.

(F) Each wall finish shall be washable and, in

the immediate area of plumbing fixtures, shall be smooth and moisture resistant. Finish, trim, and wall and floor construction in dietary and food preparation areas shall be free from spaces that can harbor rodents and insects.

(G) Floor, wall, and ceiling penetrations by pipes, ducts, and conduits shall be tightly sealed to minimize entry of rodents and insects. Joints of structural elements shall be similarly sealed.

(H) Each ceiling shall be easily cleanable. Each ceiling in the dietary, food preparation, and food storage areas shall be washable and shall have a finished ceiling covering all overhead pipes and duct work. Finished ceilings may be omitted in mechanical and equipment spaces, shops, general storage areas, and similar spaces unless required for fire protection purposes.

(I) The facility shall provide sound absorbing materials for ceilings for corridors in resident areas, nurses' stations, day rooms, recreation rooms, dining areas, and waiting areas.

(2) Each facility constructed before February 15, 1977 shall meet the following requirements.

(A) Each wall base in kitchens, soiled work-rooms, and other areas which is frequently subject to wet cleaning methods shall be tightly sealed, and constructed without voids that can harbor insects.

(B) Each wall finish shall be washable and, in the immediate area of plumbing fixtures, shall be smooth and moisture-resistant. Finish, trim, wall, and floor construction in dietary and food preparation areas shall be free from spaces that can harbor rodents and insects.

(C) Each floor and wall penetration by pipes, ducts, or conduits shall be tightly sealed to minimize entry of rodents and insects. Each joint of structural elements shall be similarly sealed.

(D) Each ceiling in the dietary, food preparation, and food storage areas shall be cleanable by dustless methods such as vacuum cleaning or wet cleaning. These areas shall not have exposed or unprotected sewer lines. (Authorized by and implementing K.S.A. 39-932; effective Nov. 1, 1993; amended Feb. 21, 1997.)

28-39-162c. Nursing facility physical environment; mechanical and electrical requirements. (a) Freestanding buildings. Separate freestanding buildings housing the boiler plant, laundry, shops, or general storage may be of unprotected noncombustible construction, pro-

tected noncombustible construction, or fire-resistant construction.

(b) Elevators. Throwover capability for elevators shall be provided to allow temporary operation for release of persons trapped between floors.

(c) Inspections and tests. The individual or company installing mechanical equipment shall inspect and test the equipment, and, if applicable, the owner shall be furnished written certification that the installation meets the requirements set forth in K.A.R. 28-39-162c and all applicable safety regulations and codes.

(d) Mechanical requirements. The facility shall meet mechanical requirements that ensure the safety, comfort, and convenience of residents and other occupants.

(1) Each facility constructed or modified on or before May 1, 1982 shall meet the following requirements:

(A) All mechanical systems shall be tested, balanced, and operated to demonstrate to the owner or representative of the owner that the installation and performance of the systems conform to the requirements of the plans and specifications before completion and acceptance by the facility.

(B) Upon completion of the contract, the owner shall have a complete set of manufacturer's operating, maintenance, and preventive maintenance instructions, parts list with numbers, and a description for each piece of equipment.

(C) The owner shall have complete instructions in the use of systems and equipment.

(2) Any facility constructed or modified before May 1, 1982 shall not be required to provide evidence of testing and documentation of mechanical equipment installed before May 1, 1982.

(e) Thermal and acoustical insulation.

(1) Each facility constructed after February 15, 1982 shall provide thermal or acoustical insulation for the following within the building:

(A) Boilers, smoke breeching, and stacks;

(B) steam supply and condensate return piping;

(C) piping for water 120°F or above, and all hot water heaters, generators, and converters;

(D) chilled water, refrigerant, other process piping and equipment operating with fluid temperatures below ambient dew point;

(E) water supply and drainage piping on which condensation may occur; and

(F) air ducts and casing with outside surface temperatures below ambient dew point.

(2) Insulation may be omitted from hot water

and steam condensate piping not subject to contact by residents.

(3) Linings in air ducts and equipment in facilities constructed after February 15, 1977 shall meet erosion test methods prescribed in underwriters laboratories publication no. 181, "factory-made air ducts and air connectors," as published on April 6, 1990, and hereby adopted by reference.

(4) Each facility constructed before May 1, 1982 shall provide thermal insulation on all ducts, pipes, and equipment having outside surface temperatures below ambient dew point when in use and shall include an exterior vapor barrier.

(A) The facility shall install insulation on all hot water and steam condensate piping that is subject to contact by residents.

(B) Insulation on cold surfaces shall include an exterior vapor barrier.

(f) Steam and hot water systems.

(1) Each boiler shall have the capacity to supply the normal requirements of all systems and equipment based upon the net ratings established in "I = B = R ratings for boilers, baseboard radiation and finned tube (commercial) radiation," as published on January 1, 1992, by the hydronics institute and hereby adopted by reference.

(2) The number and arrangement of boilers shall ensure that when one boiler breaks down or routine maintenance requires that one boiler be temporarily taken out of service, the capacity of the remaining boiler or boilers shall be at least 70 percent of the total required capacity, except that in areas with a design temperature of 20°F or more, the remaining boiler or boilers shall not be required to include boiler capacity for space heating.

(3) Boiler feed pumps, heating circulating pumps, condensate return pumps, and fuel oil pumps shall be connected and installed to provide normal and standby service.

(4) Supply and return mains of cooling, heating, and process systems shall be valved as required to isolate major sections of each system. Pieces of equipment shall be provided with isolation valves to allow removal of equipment without interfering with the operation of the remainder of the system.

(5) Any facility constructed before February 15, 1977 shall not be required to comply with K.A.R. 28-39-162c subsection (e).

(g) Heating, air-conditioning, and ventilation systems.

(1) Heating, air-conditioning, and ventilation system design specifications for facilities constructed after February 15, 1977 shall be as follows:

(A) The system shall be designed to maintain a year-round indoor temperature range in resident care areas of 70°F to 85°F. The winter outside design temperature of the facility shall be -10°F dry bulb, and the summer outside design temperature of the facility shall be 100°F dry bulb.

(B) All air-supply and air-exhaust systems shall be mechanically operated. All fans serving exhaust systems shall be located at the discharge end of the system. The ventilation rates shown in Table 1 shall be the minimum acceptable rates and shall not be construed as precluding the use of higher ventilation rates. The system shall meet the following requirements:

(i) Outdoor air intakes shall be located as far as practical and no fewer than 25 feet from exhaust outlets of ventilating systems, combustion equipment stacks, medical-surgical vacuum systems, plumbing vent stacks, or from areas that may collect vehicular exhaust or other noxious fumes. The bottom of outdoor air intakes serving central systems shall be located as high as practical, and no

fewer than six feet above ground level or, if installed above the roof, no fewer than three feet above roof level.

(ii) The ventilation system shall be designed to provide the pressure relationship shown in Table 1.

(iii) The bottoms of ventilation openings shall be no fewer than three inches above the floor of any room.

(iv) Corridors shall not be used to supply air to, or exhaust air from any room, except that air from corridors may be used to ventilate bathrooms, toilet rooms, janitors' closets, and small electrical or telephone closets opening directly onto corridors.

(v) All central ventilation or air-conditioning systems shall be equipped with filters having minimum efficiencies of 25 percent. All filter efficiencies shall be average dust spot efficiencies tested in accordance with American society of heating, refrigeration, and air-conditioning engineers (ASHRAE) standard 52-76, as in effect on July 1, 1981, and hereby adopted by reference. Filter frames shall be durable and carefully dimensioned and shall provide an air-tight fit with the enclosing ductwork. All joints between filter segments and the enclosing ductwork shall be gasketed or sealed to provide a positive seal against air leakage.

Table 1
Pressure Relationships and Ventilation of Certain Areas
Long-Term Care Facilities

Area Designation	Pressure Relationship to Adjacent Areas	Minimum Air Changes of Outdoor Air Per Hour Supplied to Room	Minimum Total Air Changes Per Hour Supplied to Room	All Air Exhausted Directly to Outdoors	Recirculated Within Room Units
Resident Room	Equal	2	2	Optional	Optional
Resident Area Corridor	Equal	Optional	2	Optional	Optional
Examination and Treatment Room	Equal	2	6	Optional	Optional
Physical Therapy	Negative	2	6	Optional	Optional
Activities Room	Negative	2	6	Optional	Optional
Soiled Workroom	Negative	2	10	Yes	No
Medicine Preparation and Clean Workroom	Positive	2	4	Optional	Optional
Toilet Room	Negative	Optional	10	Yes	No
Bathroom	Negative	Optional	10	Yes	No
Janitors' Closets	Negative	Optional	10	Yes	No
Linen and Trash Chute Rooms	Negative	Optional	10	Yes	No
Food Preparation Center	Equal	2	10	Yes	No
Warewashing Room	Negative	Optional	10	Yes	No
Dietary Dry Storage	Equal	Optional	2	Yes	No
Laundry, Processing Room	Equal	2	10	Yes	No
Soiled Linen Sorting and Storage	Negative	Optional	10	Yes	No
Clean Linen Storage	Positive	Optional	2	Optional	Optional
Personal Care Room	Negative	2	6	Yes	No
Designated Smoking Area	Negative	Optional	20	Yes	No

(vi) Air-handling duct systems shall meet the requirements of the national fire protection association (NFPA) standard 90 A, as in effect on February 12, 1993, and is hereby adopted by reference.

(vii) Fire and smoke dampers shall be constructed, located, and installed in accordance with the requirements of national fire protection association (NFPA) standard 90 A, as in effect on February 12, 1993, except that all systems, regardless of size, that serve more than one smoke or fire zone, shall be equipped with smoke detectors that shut down fans automatically as delineated in paragraph 4-4.3 of that standard. Access for maintenance shall be provided at all dampers. Supply and exhaust ducts that pass through a required smoke barrier and through which smoke can be transferred to another area shall be provided with dampers at the barrier, controlled to close automatically to prevent the flow of air or smoke in either direction when the fan that moves the air through the duct stops. Dampers shall be equipped with remote control reset devices, except that manual reopening shall be permitted if dampers are conveniently located.

(viii) A return air duct that passes through a required smoke barrier shall be provided with a damper at the barrier that is actuated by a detector of smoke or products of combustion other than heat. The damper shall also be operated by detectors used to activate door-closing devices in the smoke partition or by detectors located to sense smoke in the return air duct from the smoke zone.

(ix) Exhaust hoods in food preparation areas shall have a minimum exhaust rate of 50 cfm per square foot of face area. The face area shall be the open area from the exposed perimeter of the hood to the average perimeter of the cooking surfaces. Hoods over cooking ranges shall be equipped with baffled grease filters and fire-extinguishing systems. Clean-out openings shall be provided every 20 feet or fewer feet in horizontal exhaust duct systems serving these hoods.

(C) Boiler rooms shall be provided with sufficient outdoor air to maintain combustion rates of equipment and to limit temperatures in working stations to not more than 97°F effective temperature (E.T.).

(D) Air-handling units shall be located to permit access for service and filter maintenance. Mechanically operated air-handling units shall not be located in attics, interstitial space above ceilings, or other difficult access areas.

(2) Heating, air-conditioning, and ventilating systems in facilities constructed before February 15, 1977 shall meet the following requirements:

(A) The system shall be designed to maintain a year-round indoor temperature range in resident care areas of 70°F to 85°F. The winter outside design temperature of the facility shall be -10°F dry bulb, and the summer outside design temperature of the facility shall be 100°F dry bulb.

(B) Insulation shall be installed on all hot water and steam condensate piping that is subject to contact by residents.

(C) The ventilation system shall be designed to provide the pressure relationship shown in table 1.

(h) Plumbing and piping systems.

(1) Plumbing and piping systems in facilities constructed after February 15, 1977 shall meet the following requirements:

(A) The material used for plumbing fixtures shall be of non-absorptive, acid-resistant material.

(B) The water supply spout for lavatories and sinks required in resident care areas shall be mounted so that the discharge point is a minimum distance of five inches above the rim of the fixture.

(C) The water supply spout for lavatories and sinks used by medical and nursing staff shall be trimmed with a valve that can be operated without the use of hands. If blade handles are used, the blades shall not exceed six inches on clinical sinks and 4½ inches in all other areas. This requirement shall not apply to lavatories in resident bedrooms and toilet rooms.

(D) Clinical sinks shall have an integral trap in which the upper portion of a visible trap seal provides a water surface.

(E) The facility shall provide nonslip surfaces in all shower bases and tubs.

(F) Water supply systems shall meet the following requirements:

(i) Systems shall be designed to supply water at sufficient pressure to operate all fixtures and equipment during maximum demand periods.

(ii) Water service mains, branch mains, risers, and branches to groups of fixtures shall be valved. Stop valves shall be provided at fixtures.

(iii) Backflow prevention devices or vacuum breakers shall be installed on hose bibbs, janitors' sinks, and bedpan flushing attachments, and on fixtures to which hoses or tubing can be attached.

(iv) Flush valves installed on plumbing fixtures shall be of a quiet operating type and shall be equipped with silencers.

(v) Water distribution systems shall be ar-

ranged to provide hot water at hot water outlets at all times. A maximum variation of 98°F to 120°F shall be acceptable at bathing facilities and lavatories in resident use areas.

(G) Hot water heating equipment shall have sufficient capacity to supply hot water at temperatures and amounts indicated below. Water temperature shall be measured at the hot water point of use or at the inlet to processing equipment.

	Clinical	Dietary	Laundry
Temperature (°F)	120 (Maximum)	120 (Minimum)	120 (Minimum)

(H) Building sewers shall discharge into a community sewerage system or a sewerage system having a permit from the department of health and environment.

(2) Each facility constructed before February 15, 1977 shall comply with the requirements found in paragraphs (h) (1) (E), (F), and (G) of this regulation.

(i) Electrical requirements. Each facility shall meet electrical requirements that ensure the safety, comfort, and convenience of residents and other occupants.

(1) Each facility constructed after February 15, 1977 shall comply with the following requirements:

(A) The facility shall install all materials, including equipment, conductors, controls, and signaling devices, to provide a complete electrical system with the characteristics and capacity to supply electricity to the electrical equipment shown in the specifications or indicated on the plans. All materials shall be listed as complying with available standards of underwriters laboratories, inc. or other nationally recognized testing laboratories.

(B) Switchboards and power panels.

(i) Circuit breakers or fusible switches that provide disconnecting means and overcurrent protection for conductors connected to switchboards and panelboards shall be enclosed or guarded to provide a dead-front type of assembly.

(ii) The main switchboard shall be located in a separate enclosure.

(iii) Switchboards, power panels, safety switches, panelboards, and other electrical distribution equipment shall be located in spaces accessible only to facility-authorized persons, or shall have locking fronts.

(iv) Switchboards shall be convenient for use, readily accessible for maintenance, clear of traffic

lanes, and in dry ventilated space, free of corrosive fumes or gases.

(v) Overload protective devices shall be suitable for operating properly in ambient temperature conditions.

(C) Panelboards. Panelboards serving lighting and appliance circuits shall be located on the same floor as the circuits they serve. This requirement shall not apply to emergency system circuits.

(D) Lighting.

(i) Each space occupied by persons, machinery, equipment within the buildings, and approaches to buildings and parking lots shall have lighting.

(ii) Resident rooms shall have general lighting and night lighting. The facility shall provide a reading light for each resident. At least one light fixture for night lighting shall be switched at the entrance to each resident's room. All switches for control of lighting in resident areas shall be of the quiet operating type.

(iii) Minimum lighting intensity levels shall be those levels required in Table 2.

(iv) Portable lamps shall not be an acceptable light source except as specifically permitted in Table 2.

(v) Each corridor and stairway shall remain lighted at all times.

(vi) The facility shall equip each light located in an area accessible to a resident with a shade, globe, grid, or glass panel.

(E) Receptacles.

(i) Each resident bedroom shall have at least one duplex-grounding type receptacle on each side of the head of each bed and another duplex-grounding type receptacle on another wall. A television convenience outlet shall be located on at least one wall.

(ii) Duplex receptacles for general use shall be installed approximately 50 feet apart in all corridors and a maximum of 25 feet from the ends of corridors.

(F) Equipment installation in hydrotherapy areas. The electrical circuit or circuits to fixed or portable equipment in hydrotherapy units shall have five milliampere ground-fault interrupters.

(2) Each facility constructed before February 15, 1977 shall meet the following electrical requirements:

(A) Each space occupied by persons, machinery, and equipment within the buildings, each approach to buildings, and each parking lot shall have lighting.

(B) Resident bedrooms shall have general

lighting and night lighting. The facility shall provide a reading light for each resident.

(C) Minimum lighting intensity levels shall be those levels required in Table 2.

(D) Portable lamps shall not be an acceptable light source except as specifically permitted in Table 2.

Table 2
Artificial Light Requirements

Place	Light Measured in Foot-Candles	Where Measured
Kitchen and other food preparation and serving areas	70	Counter level
Dining room	25	Table level
Living room or recreation room		
General	15	Three feet above floor
Reading and other specialized areas (may be portable lamp)	50	Chair or table level
Nurses' station and office		
General	20	Three feet above floor
Desk and charts	50	Desk level
Clean workroom	30	Counter level
Medication room	100	Counter level
Central bath and showers	30	Three feet above floor
Resident's room		
General	10	Three feet above floor
Bed	30	Mattress top level, at bed wall to 3'-0" out from bed wall.
Laundry	30	Three feet above floor
Janitor's closet	15	Three feet above floor
Storage room		
General	5	Three feet above floor
Disinfectant or cleaning agent storage area	15	Three feet above floor
Corridors	10	Floor level
Stairways	20	Step level
Exits	5	Floor level
Heating plant space	5	Floor level

(E) Each corridor and stairway shall remain lighted at all times.

(F) Each light located in an area accessible to

a resident shall be equipped with a shade, globe, grid, or glass panel.

(G) Resident rooms shall have at least one duplex-grounding type receptacle.

(H) The electrical circuit or circuits to fixed or portable equipment in hydrotherapy units shall be provided with five milliampere ground-fault interrupters.

(j) Emergency power. An emergency electrical power system shall supply power adequate for the following:

(1) Lighting all emergency entrances and exits, exit signs, and exit directional lights;

(2) equipment to maintain the fire detection, fire alarm, and fire extinguishing systems;

(3) exterior door monitors;

(4) life support systems in the event that the normal electrical supply is interrupted. When life support systems are used, the facility shall provide emergency electrical power with an emergency generator as defined in national fire protection association (NFPA) 99, standard for health care facilities, as in effect on February 12, 1993, that is located on the premises;

(5) a resident call system;

(6) a fire pump, if installed;

(7) general illumination and selected receptacles in the vicinity of the generator set; and

(8) a paging or speaker system if the system is intended for communication during an emergency.

(9) Facilities constructed before February 15, 1977 shall not be required to provide emergency electrical power to the resident call system.

(k) Space and equipment. The facility shall provide sufficient space and equipment in dining, health services, recreation, and program areas to enable staff to provide residents with needed services as required by these regulations and as identified in each resident's plan of care.

(l) Door monitors.

(1) The facility shall install an electrical monitoring system on any door that is accessible to residents and that meets one of the following criteria:

(A) The door opens to the exterior of the building.

(B) The door opens into an area of the building licensed as an assisted living or a residential health care facility.

(C) The door opens into an area of the building that is not licensed.

(2) An electrical monitoring system shall not be required at a door that opens into an assisted liv-

ing or residential health care facility when all doors to the exterior of the building are equipped with a monitoring system meeting the requirements specified in paragraph (m)(3).

(3) The electrical monitoring system shall meet the following provisions:

(A) Alerts personnel that a monitored door has been opened; and

(B) remains activated until manually reset by facility staff.

(4) The monitoring system may be operated to permit total or selective disabling during daylight hours when there is visual control of the door by facility staff.

(5) The electrical monitoring system selected shall be designed to prevent residents who wander from leaving the building without awareness of the staff.

(m) Any ice dispenser accessible to residents shall dispense ice directly into a container.

(n) Preventive maintenance program.

(1) The facility shall implement a preventive maintenance program to ensure all of the following:

(A) Electrical and mechanical equipment is maintained in good operating condition.

(B) The interior and exterior of the building are safe, clean, and orderly.

(C) Resident care equipment is maintained in a safe, operating, and sanitary condition.

(p) Building and equipment supplies shall be stored in areas not accessible to residents.

(q) Housekeeping services.

(1) The facility shall provide housekeeping services to maintain a safe, sanitary, and comfortable environment for residents and to help prevent the development or transmission of infections.

(2) The facility shall be kept free of insects, rodents, and vermin.

(3) The grounds shall be free from accumulation of rubbish and other health or safety hazards.

(4) Wastebaskets shall be located at all lavatories. (Authorized by and implementing K.S.A. 39-932; effective Nov. 1, 1993; amended Feb. 21, 1997; amended Oct. 8, 1999.)

28-39-163. Administration. Each nursing facility shall be administered in a manner that enables it to use its resources effectively and efficiently to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident. (a) Governing body.

(1) Each facility shall have a governing body or shall designate a group of people to function as a governing body. The governing body shall be legally responsible for establishing and implementing policies regarding the management and operation of the facility.

(2) The governing body shall appoint an administrator who meets the following criteria:

(A) Is licensed by the state; and

(B) has full authority and responsibility for the operation of the facility and compliance with licensing requirements.

(3) The licensee shall adopt a written position description for the administrator that includes responsibility for the following:

(A) Planning, organizing, and directing the operation of the facility;

(B) implementing operational policies and procedures for the facility; and

(C) authorizing, in writing, a responsible employee 18 years old or older to act on the administrator's behalf in the administrator's absence.

(4) Each facility may request approval from the department for an administrator to supervise more than one nursing facility. Each request shall be submitted, in writing, by the governing bodies of the facilities on a form approved by the department. Each facility shall meet all of the following conditions:

(A) The facilities are in a proximate location that would facilitate on-site supervision daily, if needed.

(B) The combined resident capacity does not exceed 120 residents.

(C) The administrator appointed to operate the facilities has had at least two years of experience as an administrator of a nursing facility and has demonstrated the ability to assure the health and safety of residents.

(D) When a change in administrator occurs, the facilities submit the credentials of the proposed new administrator for approval by the department.

(b) Policies and procedures.

(1) Each licensee shall adopt and enforce written policies and procedures to ensure all of the following:

(A) Each resident attains or maintains the highest practicable physical, mental, and psychosocial well-being.

(B) Each resident is protected from abuse, neglect, and exploitation.

(C) The rights of residents are proactively assured.

(2) The facility shall revise all policies and procedures as necessary and shall review all policies and procedures at least annually.

(3) Policies and procedures shall be available to staff at all times. Policies and procedures shall be available, on request, to any person during normal business hours. The facility shall post a notice of availability in a readily accessible place for residents.

(c) Power of attorney and guardianship. Anyone employed by or having a financial interest in the facility, unless the person is related by marriage or blood within the second degree to the resident, shall not accept a power of attorney, a durable power of attorney for health care decisions, guardianship, or conservatorship.

(d) Reports. Each administrator shall submit to the licensing agency, not later than 10 days following the period covered, a semiannual report of residents and employees. The administrator shall submit the report on forms provided by the licensing agency. The administrator shall submit any other reports as required by the licensing agency.

(e) Telephone. The facility shall maintain at least one non-coin-operated telephone accessible to residents and employees on each nursing unit for use in emergencies. The facility shall post adjacent to this telephone the names and telephone numbers of persons or places commonly required in emergencies.

(f) Smoking. If smoking is permitted, there shall be designated smoking areas.

(1) The designated areas shall not infringe on the rights of nonsmokers to reside in a smoke-free environment.

(2) The facility shall provide areas designated as smoking areas both inside and outside the building.

(g) Staff development and personnel policies. The facility shall provide regular performance review and in-service education of all employees to ensure that the services and procedures assist residents to attain and maintain their highest practicable level of physical, mental, and psychosocial functioning.

(1) The facility shall regularly conduct and document an orientation program for all new employees.

(2) Orientation of direct care staff shall include review of the facility's policies and procedures and

evaluation of the competency of the direct care staff to perform assigned procedures safely and competently.

(3) The facility shall provide regular, planned in-service education for all staff.

(A) The in-service program shall provide all employees with training in fire prevention and safety, disaster procedures, accident prevention, resident rights, psychosocial needs of residents, and infection control.

(B) The facility shall provide direct care staff with in-service education in techniques that assist residents to function at their highest practicable physical, mental, and psychosocial level.

(C) Direct care staff shall participate in at least 12 hours of in-service education each year. All other staff shall participate in at least eight hours of in-service education each year.

(D) The facility shall maintain documentation of in-service education offerings. Documentation shall include a content outline, resume of the presenter, and record of staff in attendance.

(E) The facility shall record attendance at in-service education in the employee record of each staff member.

(h) Professional staff qualifications.

(1) The facility shall employ on a full-time, part-time, or consultant basis any professionals necessary to carry out the requirements of these regulations.

(2) The facility shall document evidence of licensure, certification, or registration of full-time, part-time, and consultant professional staff in employee records.

(3) The facility shall perform a health screening, including tuberculosis testing, on each employee before employment or not later than seven days after employment.

(i) Use of outside resources. Arrangements or agreements pertaining to services furnished by outside resources shall specify in writing that the facility assumes responsibility for the following:

(1) Obtaining services that meet professional standards and principles that apply to professionals providing services; and

(2) assuring the timeliness of the services.

(j) Medical director.

(1) The facility shall designate a physician to serve as medical director.

(2) The medical director shall be responsible for the following:

(A) Implementation of resident care policies reflecting accepted standards of practice;

(B) coordination of medical care in the facility; and

(C) provision of consultation to the facility staff on issues related to the medical care of residents.

(k) Laboratory services. The facility shall provide or obtain clinical laboratory services to meet the needs of its residents. The facility shall be responsible for the quality and timeliness of the services.

(1) If the facility provides its own clinical laboratory services, it shall meet all of the following requirements:

(A) The services shall meet applicable statutory and regulatory requirements for a clinical laboratory.

(B) The facility staff shall follow manufacturer's instructions for performance of the test.

(C) The facility shall maintain a record of all controls performed and all results of tests performed on residents.

(D) The facility shall ensure that staff who perform laboratory tests do so in a competent and accurate manner.

(2) If the facility does not provide the laboratory services needed by its residents, the facility shall have written arrangements for obtaining these services from a laboratory as required in 42 CFR 483.75(j), as published on October 1, 1993, and hereby adopted by reference.

(3) All laboratory services shall be provided only on the order of a physician.

(4) The facility shall ensure that the physician ordering the laboratory service is notified promptly of the findings.

(5) The facility shall ensure that the signed and dated clinical reports of the laboratory findings are documented in each resident's clinical record.

(6) The facility shall assist the resident, if necessary, in arranging transportation to and from the source of laboratory services.

(l) Radiology and other diagnostic services. The facility shall provide or obtain radiology and other diagnostic services to meet the needs of its residents.

(1) If the facility provides its own radiology and diagnostic services, the services shall meet applicable statutory and regulatory requirements for radiology and other diagnostic services.

(2) If the facility does not provide the radiology and diagnostic services needed by its residents, the facility shall have written arrangements for obtaining these services from a licensed provider or supplier.

(3) All radiology and diagnostic services shall be provided only on the order of a physician.

(4) The facility shall ensure that the physician ordering the radiology or diagnostic services is notified promptly of the findings.

(5) The facility shall document signed and dated clinical reports of the radiological or diagnostic findings in the resident's clinical record.

(6) The facility shall assist the resident, if necessary, in arranging transportation to and from the source of radiology or diagnostic services.

(m) Clinical records.

(1) The facility shall maintain clinical records on each resident in accordance with accepted professional standards and practices. The records shall meet the following criteria:

(A) Be complete;

(B) be accurately documented; and

(C) be systematically organized.

(2) Clinical records shall be retained according to the following schedule:

(A) At least five years following the discharge or death of a resident; or

(B) for a minor, five years after the resident reaches 18 years of age.

(3) Resident records shall be the property of the facility.

(4) The facility shall keep confidential all information in the resident's records, regardless of the form or storage method of the records, except when release is required by any of the following:

(A) Transfer to another health care institution;

(B) law;

(C) third party payment contract;

(D) the resident or legal representative; or

(E) in the case of a deceased resident, the executor of the resident's estate, or the resident's spouse, adult child, parent, or adult brother or sister.

(5) The facility shall safeguard clinical record information against loss, destruction, fire, theft, and unauthorized use.

(6) The clinical record shall contain the following:

(A) Sufficient information to identify the resident;

(B) a record of the resident's assessments;

(C) admission information;

(D) the plan of care and services provided;

(E) a discharge summary or report from the attending physician and a transfer form after a resident is hospitalized or transferred from another health care institution;

- (F) physician's orders;
 - (G) medical history;
 - (H) reports of treatments and services provided by facility staff and consultants;
 - (I) records of drugs, biologicals, and treatments administered; and
 - (J) documentation of all incidents, symptoms, and other indications of illness or injury, including the date, the time of occurrence, the action taken, and the results of action.
- (7) The physician shall sign all documentation entered or directed to be entered in the clinical record by the physician.
- (8) Documentation by direct care staff shall meet the following criteria:
- (A) List drugs, biologicals, and treatments administered to each resident;
 - (B) be an accurate and functional representation of the actual experience of the resident in the facility;
 - (C) be written in chronological order and signed and dated by the staff person making the entry;
 - (D) include the resident's response to changes in condition with follow-up documentation describing the resident's response to the interventions provided;
 - (E) not include erasures or use of white-out. Each error shall be lined through and the word "error" added. The staff person making the correction shall sign and date the error. An entry shall not be recopied; and
 - (F) in the case of computerized resident records, include a system to ensure that when an error in documentation occurs, the original entry is maintained and the person making the correction enters the date and that person's electronic signature in the record.
- (9) Clinical record staff.
- (A) The facility shall assign overall supervisory responsibility for maintaining the residents' clinical records to a specific staff person.
- (B) The facility shall maintain clinical records in a manner consistent with current standards of practice.
- (C) If the clinical record supervisor is not a qualified medical record practitioner, the facility shall provide consultation through a written agreement with a qualified medical record practitioner.
- (n) Disaster and emergency preparedness.
- (1) The facility shall have a detailed written emergency management plan to meet potential

emergencies and disasters, including, fire, flood, severe weather, tornado, explosion, natural gas leak, lack of electrical or water service, and missing residents.

(2) The plan shall be coordinated with area governmental agencies.

(3) The plan shall include written agreements with agencies that will provide needed services, including providing a fresh water supply, evacuation site, and transportation of residents to an evacuation site.

(4) The facility shall ensure disaster and emergency preparedness by the following means:

(A) Orienting new employees at the time of employment to the facility's emergency management plan;

(B) periodically reviewing the plan with employees; and

(C) annually carrying out a tornado or disaster drill with staff and residents.

(5) The emergency management plan shall be available to staff, residents, and visitors.

(o) Transfer agreement. The facility shall have in effect a written transfer agreement with one or more hospitals that reasonably assures both of the following:

(1) Residents will be transferred from the facility to the hospital, and timely admitted to the hospital, when transfer is medically appropriate, as determined by the attending physician.

(2) medical and other information needed for care and treatment of residents will be exchanged between the institutions.

(p) Quality assessment and assurance.

(1) The facility shall maintain a quality assessment and assurance committee consisting of these individuals:

(A) The director of nursing services;

(B) a physician designated by the facility; and

(C) at least three other members of the facility's staff.

(2) The quality assessment and assurance committee shall perform the following:

(A) Meet at least quarterly to identify issues with respect to what quality assessment and assurance activities are necessary; and

(B) develop and implement appropriate plans of action to correct identified quality deficiencies and prevent potential quality deficiencies. (Authorized by and implementing K.S.A. 39-932; effective Nov. 1, 1993; amended Feb. 21, 1997; amended Oct. 8, 1999.)

CERTIFICATION OF NURSE AIDS

28-39-164. Definitions. (a) "Adult care home" means any facility that meets the definition specified in K.A.R. 28-39-144.

(b) "Clinical instruction" means training in which the trainee demonstrates knowledge and skills while performing tasks on an individual under the direct supervision of the course instructor. Clinical instruction may be performed in any of the following settings:

- (1) An adult care home;
- (2) a long-term care unit in a hospital; or
- (3) a simulated laboratory.

(c) "Direct care" means assistance provided in activities of daily living. These activities shall include grooming, eating, toileting, transferring, and ambulation.

(d) "Direct supervision" means that the supervisor is on the facility premises and is readily accessible for one-on-one consultation, instruction, and assistance, as needed.

(e) "Eligible for employment," when describing a certified nurse aide, means that the certified nurse aide meets the following criteria:

(1) Has been employed to perform nursing or nursing-related services for at least eight hours in the preceding 24 months;

(2) has no record of abuse, neglect, and exploitation; and

(3) is not prohibited from employment based upon criminal convictions pursuant to K.S.A. 39-970, and amendments thereto.

(f) "Instructor" means an individual who has been approved by the licensing agency to teach nurse aide, home health aide, or medication aide training courses.

(g) "Licensing agency" shall have the meaning assigned in K.S.A. 39-923, and amendments thereto.

(h) "Licensed nursing experience" means experience as a registered nurse or licensed practical nurse.

(i) "Nurse aide trainee I" means an individual in the process of completing part I of a 90-hour nurse aide course as specified in K.A.R. 28-39-165.

(j) "Nurse aide trainee II" means an individual who has successfully completed part I of a 90-hour nurse aide course specified in K.A.R. 28-39-165 or whose training has been endorsed as specified in K.A.R. 28-39-167.

(k) "Simulated laboratory" means an enclosed

area that is in a school, institution, adult care home, or other facility and that is similar to an adult care home residential room. In a simulated laboratory, trainees practice and demonstrate basic nurse aide skills while an instructor observes and evaluates the trainees. (Authorized by K.S.A. 2002 Supp. 39-936, as amended by L. 2003, ch. 149, sec. 7; implementing K.S.A. 39-932 and K.S.A. 2002 Supp. 39-936, as amended by L. 2003, ch. 149, sec. 7; effective Feb. 28, 1994; amended Dec. 29, 2003.)

28-39-165. Nurse aide training program. (a) Requirements. Unlicensed employees who provide direct individual care to residents shall meet the following requirements:

(1) Successfully complete at least a 90-hour nurse aide course that has been approved by the licensing agency; and

(2) pass a state test as specified in K.A.R. 28-39-168.

(b) Certification. Each person shall be issued a nurse aide certificate by the licensing agency and shall be listed on a public registry upon completion of the requirements specified in subsection (a) of this regulation.

(c) Employment as a trainee.

(1) Each nurse aide trainee I in an approved 90-hour course shall successfully complete part I of the course to demonstrate initial competency before being employed or used as a nurse aide trainee II. A nurse aide trainee II may provide direct care to residents only under the direct supervision of a registered nurse or licensed practical nurse.

(2) Each nurse aide trainee II in an approved 90-hour course shall be issued a nurse aide certificate by the licensing agency, upon completion of the requirements specified in subsection (a), within four months from the beginning date of the initial course in order to continue employment providing direct care. Nurse aide trainee II status for employment shall be for one four-month period only.

(d) 90-hour nurse aide course.

(1) Each nurse aide course shall be prepared and administered in accordance with the guidelines established by the licensing agency in the "Kansas certified nurse aide curriculum guidelines (90 hours)," dated June 1999, and the "Kansas 90-hour certified nurse aide instructor manual," pages 1 through 20, dated November 2001, which are hereby adopted by reference.

(2) Each nurse aide course shall consist of a combination of didactic and clinical instruction. At least 50 percent of part I and part II of the course curriculum shall be provided as clinical instruction.

(3) Each nurse aide course shall be sponsored by one of the following:

(A) An adult care home;

(B) a long-term care unit of a hospital; or

(C) a postsecondary school under the jurisdiction of the state board of regents.

(4) Clinical instruction shall be conducted in one or a combination of the following locations:

(A) An adult care home;

(B) a long-term care unit of a hospital; or

(C) a simulated laboratory.

(5) An adult care home shall not sponsor or provide clinical instruction for a 90-hour nurse aide course if that adult care home has been subject to any of the sanctions under the medicare certification regulations listed in 42 C.F.R. 483.151(b)(2), as in effect on October 1, 2001, which is hereby adopted by reference.

(e) No correspondence course shall be approved as a nurse aide course.

(f) Distance-learning offerings and computer-based educational offerings shall meet the standards specified in subsection (d) of this regulation. (Authorized by K.S.A. 39-932 and K.S.A. 2002 Supp. 39-936, as amended by L. 2003, ch. 149, sec. 7; implementing K.S.A. 2002 Supp. 39-936, as amended by L. 2003, ch. 149, sec. 7; effective Feb. 28, 1994; amended Dec. 29, 2003.)

28-39-166. Nurse aide course instructor. (a) Approval and qualifications.

(1) Each person who intends to be a course instructor shall submit a completed instructor approval application form to the licensing agency at least three weeks before offering an initial course and shall receive approval as an instructor before the first day of an initial course.

(2) Each course instructor shall be a registered nurse with a minimum of two years of licensed nursing experience, with at least 1,750 hours of experience in either or a combination of an adult care home or long-term care unit of a hospital. Each course instructor shall have completed a course in teaching adults, shall have completed a professional continuing education offering on supervision or adult education, or shall have experience in teaching adults or supervising nurse aides.

(b) Course instructor and course sponsor responsibilities.

(1) Each course instructor and course sponsor shall be responsible for ensuring that the following requirements are met:

(A) A completed course approval application form shall be submitted to the licensing agency at least three weeks before offering a course. Approval shall be obtained from the licensing agency at the beginning of each course whether the course is being offered initially or after a previous approval. Each change in course location, schedule, or instructor shall require approval by the licensing agency.

(B) All course objectives shall be accomplished.

(C) Only persons in health professions having the appropriate skills and knowledge shall be selected to conduct any part of the training. Each person shall have at least one year of experience in the subject area in which that person is providing training.

(D) Each person providing a part of the training shall do so only under the direct supervision of the course instructor.

(E) The provision of direct care to residents by a nurse aide trainee II during clinical instruction shall be limited to clinical experiences that are for the purpose of learning nursing skills under the direct supervision of the course instructor.

(F) When providing clinical instruction, the course instructor shall perform no other duties but the direct supervision of the nurse aide trainees.

(G) Each nurse aide trainee in the 90-hour nurse aide course shall demonstrate competency in all skills identified on the part I task checklist before the checklist is signed and dated by the course instructor as evidence of successful completion of part I of the course.

(H) The course shall be prepared and administered in accordance with the guidelines in the "Kansas certified nurse aide curriculum guidelines (90 hours)" and the "Kansas 90-hour certified nurse aide instructor manual," as adopted in K.A.R. 28-39-165.

(2) Any course instructor or course sponsor who does not meet the requirements of this regulation may be subject to withdrawal of approval to serve as a course instructor or a course sponsor. (Authorized by K.S.A. 39-932 and K.S.A. 2002 Supp. 39-936, as amended by L. 2003, ch. 149, sec. 7; implementing K.S.A. 2002 Supp. 39-936, as

amended by L. 2003, ch. 149, sec. 7; effective Feb. 28, 1994; amended Dec. 29, 2003.)

28-39-167. Out-of-state and allied health training endorsement for nurse aide.

(a) Each person who meets any one of the following conditions shall be deemed to have met the requirements specified in K.A.R. 28-39-165 if that person passes a state test as specified in K.A.R. 28-39-168.

(1) Each person who has received nurse aide training in another state, is listed on another state's registry as a nurse aide, and is eligible for employment as a nurse aide shall be deemed eligible to take the state test as specified in K.A.R. 28-39-168. Each person whose training in another state is endorsed and who has passed the state test shall be issued a nurse aide certificate.

(2) Each person who meets any of the following criteria shall be deemed eligible to take the state test as specified in K.A.R. 28-39-168:

(A) Has completed training deemed equivalent to the requirements specified in K.A.R. 28-39-165;

(B) is currently licensed in Kansas or another state to practice as a registered nurse, licensed practical nurse, or licensed mental health technician, with a license that has not been suspended or revoked; or

(C) has a license to practice as a registered nurse, licensed practical nurse, or licensed mental health technician that has expired within the 24-month period before applying for equivalency, but has not been suspended or revoked.

(3) Each person who has received training from an accredited nursing or mental health technician training program within the 24-month period before applying for equivalency and whose training included a basic skills component comprised of personal hygiene, nutrition and feeding, safe transfer and ambulation techniques, normal range of motion and positioning, and a supervised clinical experience in geriatrics shall be deemed eligible to take the state test as specified in K.A.R. 28-39-168.

(b) Each person qualified under subsection (a) of this regulation shall receive written approval from the licensing agency or its designated agent to take the state test. Upon receiving written approval from the licensing agency or its designated agent to take the state test, that person may be employed by an adult care home as a nurse aide trainee II to provide direct care under the direct

supervision of a registered nurse or a licensed practical nurse. Each person employed as a nurse aide trainee II shall be issued a nurse aide certificate by the licensing agency, upon completion of the requirements specified in K.A.R. 28-39-165(a), within one four-month period starting from the date of approval, in order to continue employment providing direct care. (Authorized by K.S.A. 39-932 and K.S.A. 2002 Supp. 39-936, as amended by L. 2003, ch. 149, sec. 7; implementing K.S.A. 2002 Supp. 39-936, as amended by L. 2003, ch. 149, sec. 7; effective Feb. 28, 1994; amended Dec. 29, 2003.)

28-39-168. State nurse aide test. (a) Composition of state nurse aide test. The state test shall be comprised of 100 multiple-choice questions. A score of 70 percent or higher shall constitute a passing score.

(b) State nurse aide test eligibility.

(1) Only persons who have successfully completed an approved 90-hour nurse aide course or completed education or training that has been endorsed or deemed equivalent as specified in K.A.R. 28-39-167 shall be allowed to take the state test.

(2) Each person shall have a maximum of three attempts per year from the beginning date of the course to pass the state test after completing an approved 90-hour course as specified in K.A.R. 28-39-165.

(3) If the person does not pass the state test within one year after the starting date of taking an approved 90-hour course, the person shall retake the entire course.

(4) If a person whose education or training has been endorsed or deemed equivalent as specified in K.A.R. 28-39-167 and the person does not pass the state test on the first attempt, the person shall successfully complete an approved 90-hour nurse aide course as specified in K.A.R. 28-39-165 to retake the state test. Each person whose training was endorsed or deemed equivalent, who failed the state test, and who has successfully completed an approved nurse aide course shall be eligible to take the test three times within a year after the beginning date of the course.

(c) Application fee.

(1) Each nurse aide trainee shall pay a nonrefundable application fee of \$20.00 before taking the state test. A nonrefundable application fee shall be required each time the test is scheduled to be taken. Each person who is scheduled to take

the state test, but fails to take the state test, shall submit another fee before being scheduled for another opportunity to take the test.

(2) Each course instructor shall collect the application fee for each nurse aide candidate eligible to take the state test and shall submit the fees, class roster, application forms, and accommodation request forms to the licensing agency or its designated agent.

(d) Each person who is eligible to take the state test and who has submitted the application fee and application form shall be issued written approval, which shall be proof of eligibility to sit for the test.

(e) Test accommodation.

(1) Any reasonable test accommodation or auxiliary aid to address a disability may be requested by any person who is eligible to take the state test. Each request for reasonable accommodation or auxiliary aid shall be submitted each time a candidate is scheduled to take the test.

(2) Each person requesting a test accommodation shall submit an accommodation request form along with an application form to the instructor. The instructor shall forward these forms to the licensing agency or its designated agent at least three weeks before the desired test date. Each instructor shall verify the need for the accommodation by signing the accommodation request form.

(3) Each person whose second language is English shall be allowed to use a bilingual dictionary while taking the state test. Limited English proficiency shall not constitute a disability with regard to accommodations. An extended testing period of up to two additional hours may be offered to persons with limited English proficiency. (Authorized by K.S.A. 39-932 and K.S.A. 2002 Supp. 39-936, as amended by L. 2003, ch. 149, sec. 7; implementing K.S.A. 2002 Supp. 39-936, as amended by L. 2003, ch. 149, sec. 7; effective Feb. 28, 1994; amended Dec. 29, 2003.)

28-39-169. (Authorized by K.S.A. 75-5625; implementing K.S.A. 65-1,120; effective Feb. 28, 1994; revoked Dec. 29, 2003.)

CERTIFICATION OF MEDICATION AIDES

28-39-169a. Medication aide. (a) Each medication aide candidate shall be either a nurse aide who has been issued a certificate by the licensing agency or a qualified mental retardation professional as defined in 42 C.F.R. 483.430(a),

revised October 1, 2001 and hereby adopted by reference, and shall meet the following requirements:

(1) Has completed a course in medication administration approved by the licensing agency; and

(2) has passed a state test as approved by the licensing agency.

(b) Each person who has met one of the following requirements shall be eligible to enroll in a medication aide course:

(1) Is a nurse aide who has a Kansas nurse aide certificate and who has been screened and tested for reading comprehension at an eighth-grade level; or

(2) is a qualified mental retardation professional employed by an intermediate care facility for the mentally retarded.

(c) A qualified mental retardation professional who is not a nurse aide, who has completed a course in medication administration as approved by the licensing agency, and who has passed the state test shall be allowed to administer medications only to residents in an intermediate care facility for the mentally retarded.

(d)(1) Each medication aide course shall meet the following requirements:

(A) Consist of a minimum of 75 total hours, which shall include a minimum of 25 hours of clinical instruction;

(B) be prepared and administered in accordance with the guidelines prescribed by the licensing agency and follow the content outlined in the "Kansas medication aide curriculum," dated April 1, 2003, and the "Kansas medication aide sponsor and instructor manual," pages 1 through 17, dated November 13, 2003, which are hereby adopted by reference; and

(C) be sponsored by one of the following:

(i) A postsecondary school under the jurisdiction of the state board of regents;

(ii) a state-operated institution for the mentally retarded; or

(iii) a professional health care association approved by the licensing agency.

(2) No correspondence course shall be approved as a medication aide course.

(3) Distance-learning and computer-based educational offerings shall be required to meet the requirements specified in this subsection.

(e) Each medication aide course instructor shall meet the following requirements:

(1) Each person who intends to be a course

instructor shall submit an instructor approval application form to the licensing agency at least three weeks before offering an initial course and shall be required to receive approval as an instructor before the first day of an initial course.

(2) Each instructor shall be a registered nurse with a current Kansas license and two years of clinical experience as a registered nurse. Any Kansas-licensed pharmacist actively working in the pharmacy field may conduct part of the training under the supervision of an approved instructor.

(f) Each course sponsor and course instructor shall be responsible for ensuring that the following requirements are met:

(1) Only persons who meet the qualifications specified in subsection (b) of this regulation shall be eligible to take the course.

(2) Each trainee shall be screened and tested for comprehension of the written English language at an eighth-grade reading level before enrolling in the course.

(3) The course shall be prepared and administered in accordance with the guidelines and follow the content in the "Kansas medication aide curriculum," and the "Kansas medication aide sponsor and instructor manual," as adopted in subsection (d) of this regulation.

(4) The clinical instruction and skills performance involving the administering of medications shall be under the direct supervision of the course instructor.

(5) During the clinical instruction and skills performance, the course instructor shall perform no other duties than the provision of direct supervision to the trainees.

(g) Any course instructor or course sponsor who does not fulfill the requirements of this regulation may be subject to withdrawal of approval to serve as a course instructor or a course sponsor.

(h) Any person whose education or training has been deemed equivalent to the medication aide course by an approved sponsor as specified in paragraph (d)(1)(C) may apply to take the state test to become certified as a medication aide. Before requesting a determination of equivalency for a person's education or training, that person shall be a Kansas-certified nurse aide and shall meet one of the following conditions:

(1) The person is currently credentialed to administer medications in another state. The licensing agency or the designated agent shall evaluate that state's credentialed training for equivalency

in content and skills level to the requirements for certification as a medication aide in Kansas.

(2) The person is currently enrolled in an accredited practical nursing or professional nursing program and has completed a course of study in pharmacology with a grade of C or better.

(3) The person is currently licensed in Kansas or another state, or has been licensed within 24 months from the date of application, as a licensed mental health technician, and there are no pending or current disciplinary actions against the individual's license.

(4) The person has been licensed in Kansas or another state, within 24 months from the date of application, as a licensed practical nurse whose license is inactive or a registered nurse whose license is inactive, and there are no pending or current disciplinary actions against the individual's license. (Authorized by K.S.A. 75-5625; implementing K.S.A. 65-1124; effective Dec. 29, 2003.)

28-39-169b. State medication aide test.

(a) The state test shall be administered by the licensing agency or the designated agent and in accordance with guidelines prescribed by the licensing agency as outlined in the "test administration manual for proctors of the medication aide tests," dated October 17, 2002, which is hereby adopted by reference.

(1) Each person who has completed the medication aide course as specified in K.A.R. 28-39-169a shall have a maximum of two attempts to pass the state test within 12 months after the first day of the course. If the person does not pass the test within this 12-month period, the course shall be retaken. Each time the person successfully completes the course, the person shall have two attempts to pass the state test within 12 months after the first day of the course. The number of times a person may retake the course shall be unlimited.

(2) Each person who is a Kansas-certified nurse aide and whose training has been deemed equivalent to the Kansas medication aide course shall have a maximum of one attempt to pass the test within 12 months after the date the equivalency is approved. If the person does not pass the test within this 12-month period, the person shall be required to take the medication aide course.

(3) There shall be three different forms of the state test. The different forms of the test shall be used on an alternating basis. Each of the three

forms shall be comprised of 85 multiple-choice questions. The passing scores for the three forms of the test shall be as follows:

(A) A score of 57 or higher shall constitute a passing score for form 1 of the state test.

(B) A score of 61 or higher shall constitute a passing score for form 2 of the state test.

(C) A score of 63 or higher shall constitute a passing score for form 3 of the state test.

(4) Only persons who have met the requirements specified in K.A.R. 28-39-169a(a)(1) and (h) shall be eligible to take the state test.

(5) Each person whose second language is English shall be allowed to use a bilingual dictionary while taking the state test. Limited English proficiency shall not constitute a disability with regard to accommodation. An extended testing period of up to two additional hours may be offered to persons with limited English proficiency.

(b) Each person shall be issued a medication aide certificate by the licensing agency and shall be listed on a public nurse aide registry upon successful completion of the requirements specified in K.A.R. 28-39-169a(a) and (h).

(c) The course instructor shall submit to the licensing agency a course roster of names, an application form, and a nonrefundable application fee of \$20.00 for each medication aide who has completed the course and passed the state test.

(d) A replacement medication aide certificate for a medication aide whose certification is current shall be issued by the licensing agency upon the receipt and processing of a certificate replacement form and a nonrefundable fee of \$20.00. (Authorized by K.S.A. 65-1,121 and K.S.A. 75-5625; implementing K.S.A. 65-1,121 and 65-1124; effective Dec. 29, 2003.)

28-39-169c. Medication aide continuing education. (a) Each person who has a certificate of completion for a medication aide training course as specified in K.A.R. 28-39-169a and who wishes to maintain the certificate shall complete, every two years, a program of 10 hours of continuing education approved by the licensing agency.

(b) The continuing education requirement shall include one or more of the following topics:

- (1) Classes of drugs and new drugs;
- (2) new uses of drugs;
- (3) methods of administering drugs;
- (4) alternative treatments, including herbal

drugs and their potential interaction with traditional drugs;

(5) safety in the administration of drugs; or

(6) documentation.

(c) Each program of continuing education shall be sponsored by one of the following:

(1) A postsecondary school under the jurisdiction of the state board of regents;

(2) an adult care home;

(3) a long-term care unit of a hospital;

(4) a state-operated institution for the mentally retarded; or

(5) a professional health care association approved by the licensing agency.

(d) Each course instructor shall be a registered nurse with a current Kansas license and two years of clinical experience as a registered nurse or a licensed practical nurse. Any Kansas-licensed pharmacist actively working in the pharmacy field may be selected to conduct part of the training under the supervision of the instructor.

(e) Each person who intends to be a course instructor shall submit an instructor approval application form to the licensing agency at least three weeks before offering an initial course and shall be required to receive approval as an instructor before the first day of an initial course.

(f) Each sponsor and course instructor of continuing education shall be responsible for ensuring that the following requirements are met:

(1) The course shall be prepared and administered as prescribed by regulation and the "Kansas medication aide sponsor and instructor manual," as adopted in K.A.R. 28-39-169a.

(2) A course approval application form shall be submitted to the licensing agency at least three weeks before offering a course, and course approval shall be required to be received before beginning the course.

(3) A course roster of names, a renewal application form, and a nonrefundable renewal application fee of \$20.00 for each medication aide who has completed the course shall be submitted to the licensing agency.

(4) If clinical instruction in administering medications is included in the program, each student administering medications shall be under the direct supervision of the registered nurse instructor.

(g) Any sponsor or instructor who does not fulfill the requirements specified in subsections (d), (e), and (f) of this regulation may be subject to withdrawal of approval to serve as a course instructor or a course sponsor.

(h) College credits or vocational training may be approved by the licensing agency as substantially equivalent to medication aide continuing education. The instructor or nursing program coordinator shall submit a department-approved form attesting that the course content is substantially equivalent to the topics listed in paragraphs (b)(1) through (6) of this regulation.

(i) Each certified medication aide shall be responsible for notifying the licensing agency of any change in the aide's address or name.

(j) No correspondence course shall be approved for a medication aide continuing education course.

(k) Distance-learning educational offerings and computer-based educational offerings shall meet the requirements specified in subsections (b), (c), (d), (e), (f), and (g) of this regulation.

(l) Each medication aide certificate shall be renewed upon the department's receipt from the course instructor of the following:

(1) Verification of the applicant's completion of 10 hours of approved continuing education;

(2) a renewal application form; and

(3) a nonrefundable renewal application fee of \$20.00.

(m) Each medication aide certificate or renewed certificate shall be valid for two years from the date of issue.

(n) Each applicant for renewal of certification shall have completed the required number of hours of documented and approved continuing education during each certification period immediately preceding renewal of the certificate. Approved continuing education hours completed in excess of the requirement shall not be carried over to a subsequent renewal period.

(o) Each medication aide certificate that has been expired for three or fewer years shall be reinstated upon the department's receipt of the following:

(1) Verification of the applicant's completion of 10 hours of approved continuing education. This continuing education shall have been completed within the three-year period following expiration of the certification;

(2) a renewal application form; and

(3) a nonrefundable renewal application fee of \$20.00.

(p) Each lapsed certificate renewed within the three-year period specified in subsection (o) shall be valid for two years from the date of issuance.

(q) Each person whose medication aide certi-

fication has been expired for more than three years shall be required to retake the 75-hour medication aide course. (Authorized by K.S.A. 65-1,121 and K.S.A. 75-5625; implementing K.S.A. 65-1,121 and 65-1124; effective Dec. 29, 2003.)

28-39-170. (Authorized by K.S.A. 75-5625; implementing K.S.A. 65-1124; effective Feb. 28, 1994; revoked Dec. 29, 2003.)

28-39-171. (Authorized by K.S.A. 65-5109; implementing K.S.A. 65-5115; effective Feb. 28, 1994; revoked Dec. 29, 2003.)

28-39-172. (Authorized by K.S.A. 65-5109; implementing K.S.A. 65-5115; effective Feb. 28, 1994; revoked Dec. 29, 2003.)

28-39-173. (Authorized by K.S.A. 65-5109; implementing K.S.A. 65-5115; effective Feb. 28, 1994; revoked Dec. 29, 2003.)

28-39-174. (Authorized by K.S.A. 65-5109; implementing K.S.A. 65-5115; effective Feb. 28, 1994; revoked Dec. 29, 2003.)

INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED

28-39-200. (Authorized by K.S.A. 39-932; effective May 1, 1979; revoked April 3, 1989.)

28-39-201. (Authorized by K.S.A. 39-932; effective May 1, 1979; amended, T-84-17, July 26, 1983; revoked May 1, 1984.)

28-39-202 through 28-39-218. (Authorized by K.S.A. 39-932; effective May 1, 1979; revoked April 3, 1989.)

28-39-219 to 28-39-223. (Authorized by K.S.A. 39-932; effective May 1, 1979; revoked May 1, 1984.)

28-39-224. (Authorized by K.S.A. 39-932; effective May 1, 1979; amended, E-81-29, Sept. 10, 1980; amended May 1, 1981; revoked May 1, 1982.)

28-39-225. Physical environment and complete construction; 16 beds or fewer. (a) General provisions. The following provisions describe the physical environment and complete construction requirements for residential buildings in which not more than 16 residents are housed in one building. The facility shall provide for a safe, sanitary environment and for the safety and comfort of the residents. Residential buildings which house six or fewer residents are gov-

erned solely by the code of federal regulations, 42 CFR 483.470, as published in the Federal Register, Vol. 53, No. 107, Friday, June 3, 1988 and adopted by reference in K.A.R. 28-39-226.

(b) Each residential building shall consist of at least the following units, areas, and rooms which shall all be within a single building and under one roof.

(1) A bedroom unit which shall consist of not more than 16 beds. Each bed shall be located in a room designed for not more than four beds. At least one single-bed room shall be provided. Each resident bedroom shall meet the following requirements:

(A) Minimum room areas, excluding toilet rooms, closets, lockers, wardrobes, other built-in fixed items, alcoves, or vestibules, shall be 80 square feet in single-bed rooms and 60 square feet per bed in multi-bed rooms;

(B) Each toilet room shall contain at least a water closet and a lavatory but not more than two water closets. The lavatory may be omitted if the toilet adjoins bedrooms containing a lavatory. There shall be not less than one water closet for each five residents;

(C) Each resident room shall be provided with a fixed closet or freestanding wardrobe with doors. A shelf and hanging rod shall be provided;

(D) Each resident room shall be equipped with furnishings required to meet the developmental needs of the residents; and

(E) Each resident room shall be located not more than 75 feet from a toilet room and not more than 150 feet from any one of the other resident use areas contained within the residential building, except other bedrooms. Distance shall be measured from one foot outside the resident room door along the shortest line in the general corridor, within one foot of corners, to one foot of the door to each service area.

(2) Service areas required below shall be located in all residential buildings. Each service area shall have a door opening from the general corridor system for direct access without passing through any intervening use area. Exceptions shall include adjoining use areas which have closely related functions. Lounges, living rooms, dens, and large open or central living areas may be considered as corridors. Each facility shall contain:

(A) An administrative area with space for charting, records, and a telephone;

(B) A room with a water closet and lavatory for

staff and visitors that is accessible without passing through a resident bedroom;

(C) A locked medication storage area with space for separate storage of each resident's medication. A separate locked compartment shall be provided within the area for controlled drugs and narcotic storage;

(D) Space for storage of clean linen. This space shall be separate from the soiled linen area;

(E) Space for holding soiled laundry with provisions to prevent odors, contamination of clean linen, and spread of disease. In residential buildings where laundry processing is done, commercial or household-type washing and drying machines shall be provided to process soiled laundry in the workroom area. The workroom shall contain a flushing rim clinic sink, a work counter, and a storage cabinet for supplies. In resident buildings for eight or fewer residents, the flushing rim clinic sink shall not be required. Clean supplies and materials shall not be stored in this area;

(F) Space for storage of equipment for the facility's use. This space may be part of the janitor's closet;

(G) Bathing units at the rate of one bathtub or shower per five residents. There shall be separate bathing units for each sex. Each bathing unit shall be located in a room or area with access to a water closet and handwashing lavatory without entering the general corridor. Bathing units shall be located within enclosures which provide privacy;

(H) A janitor's closet with a utility sink, hot and cold water, a shelf, and mop hanging provision. In residential buildings for eight or fewer residents, the janitor's closet shall not be required if other provisions are made for sanitary storage of house-keeping equipment;

(I) Living, dining, and recreational areas at the rate of 27 square feet per bed. At least 14 square feet of this space shall be utilized for dining space;

(J) A separate quiet area unless all single-bed rooms are provided. Residents shall have access to this area for reading, meditation, and private consultation with family, guests, or other residents;

(K) Public areas which include:

(i) An entrance at grade level which is designed to accommodate the handicapped in wheelchairs;

(ii) at least one public toilet accessible to and usable by the physically handicapped; and

(iii) a public telephone accessible for use from a wheelchair;

(L) Dietary areas, including kitchen and pantry

areas, in the size required to implement appropriate food service. The dietary area shall include:

(i) Storage for a four-day supply of food, including cold storage;

(ii) food preparation facilities which shall include equipment for thawing, portioning, cooking, and baking;

(iii) a two-compartment sink for vegetable preparation; and

(iv) a commercial or domestic type dishwasher with a sanitizing cycle for warewashing;

(M) Provision for disposal of waste by incineration, mechanical destruction, compaction, removal or by a combination of these techniques. Stored waste shall be in water-tight, closed containers;

(N) An equipment room or rooms or a separate building or buildings for boilers and mechanical and electrical equipment, and storage of building maintenance supplies; and

(O) If tools, supplies, or equipment used for yard or exterior maintenance are stored at the facility, a room which opens to the outside or which is located in a detached building for storage of such equipment.

(c) Details and finishes.

(1) Details.

(A) Rooms containing bathtubs, sitz baths, showers, and toilets subject to occupancy by residents shall be equipped with doors and hardware which will permit access from outside the room.

(B) Windows and outer doors left in an open position shall be provided with insect screens. Windows shall be designed to prevent accidental falls when open or shall be provided with security screens.

(C) Doors, sidelights, borrowed lights, and windows in which the glazing is within 18 inches (46 centimeters) of the floor shall be glazed with safety glass, wire glass, or plastic glazing material that will resist breaking and will not create dangerous cutting edges if broken. If glazing in any area does not meet the above requirement, protective barriers or railing shall be provided. Safety glass or plastic glazing materials as described above shall be used for shower doors and bath enclosures.

(D) Grab bars shall be provided for all residents' toilets, showers, tubs, and sitz baths. The bars shall have 1½ inch (3.8 centimeters) clearance to walls and shall have sufficient strength and anchorage to sustain a concentrated load of 150 pounds (113.4 kilograms).

(E) Shower bases and tubs shall have a nonslip surface.

(2) Finishes.

(A) Wall bases in kitchens, soiled workrooms, and other areas which are frequently subject to wet cleaning methods shall be tightly sealed and constructed without voids that can harbor insects.

(B) Wall finishes shall be washable and in the immediate area of plumbing fixtures shall be smooth and moisture resistant. Finish, trim, wall, and floor constructions in dietary and food preparation areas shall be free from spaces that can harbor rodents and insects.

(C) Floor and wall penetrations by pipes, ducts, and conduits shall be tightly sealed to minimize entry of rodents and insects. Joints of structural elements shall be similarly sealed.

(D) Ceilings in the dietary and food preparation areas shall be cleanable by vacuum cleaning, wet cleaning or other dustless methods. These areas shall not have exposed or unprotected sewer lines.

(d) Mechanical requirements.

(1) Heating, air conditioning, and ventilating systems.

(A) The system shall be designed to maintain a year-round indoor temperature range in resident care areas of 70° F. (21° C.) to 85° F. (29° C.) with a relative humidity range of 30 to 60 percent. The winter outside design temperature of the facility shall be -10° F. (-23° C.) dry bulb and the summer outside design temperature of the facility shall be 100° F. (38° C.) dry bulb.

(B) Each central ventilation or air conditioning system shall be equipped with filters having a minimum efficiency of 25 percent.

(2) Plumbing and piping systems.

(A) Backflow prevention devices (vacuum breakers) shall be installed on each bedpan flushing attachment and on each fixture to which hoses or tubing can be attached.

(B) Water distribution systems shall be arranged to provide hot water at hot water outlets at all times. The temperature of hot water shall range between 98° F. (36° C.) and 115° F. (46° C.) at shower, bathing, and handwashing facilities throughout the system except when a higher temperature, not to exceed 130° F. (54° C.), is provided as part of a written training program that provides for direct supervision.

(e) Electrical requirements.

(1) All spaces occupied by persons or machinery and equipment within the buildings, ap-

proaches to buildings, and parking lots shall have adequate lighting.

(2) Minimum lighting intensity levels shall be as required in Table 1.

(3) Portable lamps shall not be accepted as light sources, except as specifically permitted in Table 1.

(4) Corridors and stairways shall remain lighted at all times.

TABLE 1. ARTIFICIAL LIGHT REQUIREMENTS

Place	Light Measured in Foot Candles	Where Measured
Kitchen and other food preparation and serving areas	30	Counter level
Dining room	25	Table level
Living room and/or recreation room	15	Three feet above floor
General		
Reading and other specialized areas (<i>may be portable lamp</i>)	50	Chair or table level
Nurse's station and office		
General	20	Three feet above floor
Desk and charts	50	Desk level
Clean workroom	30	Counter level
Central bath and showers	30	Three feet above floor
Resident's room		
General		
Bed (<i>may be portable lamp</i>)	10	Three feet above floor
	30	Mattress top level
Laundry	30	Three feet above floor
Storage room		
General	5	Three feet above floor
Disinfectant or cleaning agent storage area	15	Three feet above floor
Corridors	10	Floor level
Stairways	20	Step level
Exits	5	Floor level
Heating plant space	5	Floor level

(5) All lights shall be equipped with shades, globes, grids, or glass panels that prevent direct glare to the residents' eyes.

(f) Site location requirements. Each facility shall be:

(1) Served by all-weather roads or streets;

(2) free from noxious or hazardous smoke or fumes;

(3) a minimum of 3,000 feet (914 meters) from feedlots, shipping or holding pens, or other concentrated livestock operations.

(4) free of flooding for a 20-year period; and

(5) sufficient in area and configuration to accommodate the facility, drives, parking, sidewalks, and a recreation area.

(g) Site development requirements.

(1) Final grading of the site shall provide topography for positive surface drainage away from the building and positive protection and control of surface drainage and freshets from adjacent areas.

(2) All drives and parking areas shall be surfaced with concrete, asphalt, or equivalent, smooth all-weather finish. Unsealed gravel surfaces shall not be used.

(3) Except for lawn or shrubbery which may be used in landscape screening, an unencumbered outdoor open area of at least 50 square feet per resident shall be provided for recreational use and shall be so designated on the plot plan. The licensing agency may approve equivalent facilities provided by terraces, roof gardens, or similar provisions for homes located in high density urban areas. (Authorized by K.S.A. 39-932; implementing K.S.A. 39-932; effective May 1, 1982; amended May 1, 1984; amended April 3, 1989.)

28-39-226. General licensure. The code of federal regulations 42 CFR 483.400 to CFR 483.480 inclusive, as published in the Federal Register, Vol. 53, No. 107, Friday, June 3, 1988, is adopted by reference. (Authorized by and implementing K.S.A. 39-932; effective April 3, 1989.)

28-39-227. General licensure. The code of federal regulations, 42 CFR 483.1 to 42 CFR 483.75 inclusive, as published in the federal register, Vol. 56, No. 187, Thursday, September 26, 1991, and as amended in Vol. 57, No. 185, Wednesday, September 23, 1992 is adopted by reference. (Authorized by and implementing K.S.A. 39-932; effective May 16, 1994.)

28-39-228. Definitions. (a) "Activities director" means a person who meets the following requirements:

(1) Has completed the requirements for certification as a music therapist or has completed the requirements for graduation as a horticultural therapist; and

(2) has one year of experience in a patient activities program in a health care setting.

(b) "Administrator" means a person who is charged with the general administration of the nursing facility for mental health whether or not

the individual has an ownership interest in the facility. Each administrator of a nursing facility for mental health shall be licensed in accordance with K.S.A. 65-3501 et seq., and amendments thereto.

(c) "Admission assessment" means that evaluation at facility admission which is used to guide the initial plan of care for the resident until the mental health plan of care is put in place.

(d) "Admitting physician" means the licensed physician who provides the order specifying the rationale for admission of a person to a nursing facility for mental health.

(e) "Behavior management program" means a therapeutic treatment regime identified by an interdisciplinary team to change or maintain a specific behavior in the behavior repertoire of a resident in a nursing facility for mental health.

(f) "Case manager" means a person in a program authorized by the Kansas department of social and rehabilitation services assigned to monitor and participate in the treatment program of a resident living in a nursing facility for mental health.

(g) "Community mental health center" means an agency licensed by the state of Kansas pursuant to K.S.A. 19-4001 et seq., and in compliance with K.S.A. 65-211 et seq. and amendments thereto.

(h) "Comprehensive assessment" means:

(1) The minimum data set plus; and

(2) all related evaluations to identify a person's current functioning level and those factors which are barriers to maintaining the current level, or achieving a higher level of functioning.

(i) "Crisis intervention" means the allowable techniques to be utilized by facility staff in situations when:

(1) A resident's inappropriate behavior escalates beyond the definitions in the individualized behavior management program; and

(2) the resident, other residents, or staff are placed in a harmful situation.

(j) "Dietitian" means a person who is licensed by the Kansas department of health and environment as a dietitian.

(k) "Direct care staff" means those persons who assist or supervise residents in meeting the objectives in the mental health plan of care.

(l) "Discharge plan" means that section of each resident's mental health plan of care that identifies what placement opportunities are available to the resident and what necessary resources, skills and behaviors are required to facilitate the placement.

(m) "Guardian" means a person who has been

appointed by a court of law to provide the functions and services for a ward as defined in K.S.A. 59-3018 and amendments thereto.

(n) "Informed consent" means receiving permission from the resident, or legal representative after the person has been presented with:

(1) The specific issue;

(2) the recommended treatment or procedure;

(3) the resident's specific mental or physical status with regard to the problem issue;

(4) any attendant risks regarding treating or not treating the problem issue;

(5) acceptable alternatives of treatment to the problem issue;

(6) the right to refuse treatment; and

(7) any consequences of refusal.

(o) "Initial plan of care" means that plan which is put into place for each individual resident following the admission assessment and which is to be used until the mental health plan of care is put in place.

(p) "Interdisciplinary team" means the group of persons, including the resident or the resident's legal representative or both, who formulate, deliver and monitor the individual program plan for each resident.

(q) "Legal representative" means the person who has been appointed by a court of law as a guardian, or has been selected by a resident as a durable power of attorney for health care decisions.

(r) "Licensed mental health technician" means a person licensed by the Kansas board of nursing as a licensed mental health technician.

(s) "Licensed nurse" means a registered nurse or a licensed practical nurse.

(t) "Licensed practical nurse" means a person who is licensed by the Kansas board of nursing as a licensed practical nurse.

(u) "Living unit" means the specific section, wing, or pod where the resident is assigned to engage in the majority of activities of daily living.

(v) "Mental health plan of care" means those documents that describe for each resident:

(1) The basis for medical or mental health treatment or training;

(2) specific objectives identified for treatment or training;

(3) the staff members who formulated the plan; and

(4) the staff members who are responsible for carrying out the plan.

(w) "Mental health professional" means a phy-

sician, psychologist, social worker, or a psychiatric nurse.

(x) "Motivational system" means those procedures and intervention techniques that are applied to a resident group of residents to enhance and maintain positive behavioral change.

(y) "Nursing facility for mental health" means a facility licensed pursuant to K.S.A. 39-923 et seq. as a nursing facility and identified by the Kansas department of social and rehabilitation services as serving mentally ill persons.

(z) "Physician" means a person who is licensed by the Kansas board of healing arts as a medical doctor or a doctor of osteopathy.

(aa) "Psychiatric nurse" means a person who is licensed by the Kansas state board of nursing as a registered nurse and who has at least one year of experience as a registered nurse in the delivery of services to persons with mental illness.

(bb) "Psychiatric services" means those interventions and assessments held out to be exclusively in the practice of a physician who has completed additional training as a psychiatrist.

(cc) "Psychotropic medication" means those drugs that are used with the intent of controlling mood, mental status and behavior.

(dd) "Psychologist" means a person who is licensed or registered as a psychologist with the Kansas board of behavioral sciences.

(ee) "Registered nurse" means a person who is licensed by the Kansas board of nursing as a registered nurse.

(ff) "Resident" means a person who has been admitted to a nursing facility for mental health and who is in need of services provided by the facility.

(gg) "Restraint" means the control and limitation of a resident's movement by:

(1) Physical restraint, which is a technique involving the use of one or more staff person's arms, legs, hands or other body areas to restrict or control the movements of a resident;

(2) mechanical restraint, which is a device applied to a person's limbs, head or body, which restricts a person's movement and access to their body; or

(3) chemical restraint, which is the administration of an appropriate physician prescribed medication for the specific purpose of immediately calming a resident when there has been an assessment that the resident or others in the resident's environment are in danger.

(hh) "Seclusion" means the isolation of a resi-

dent in a locked room which cannot be opened by the resident.

(ii) "Social worker" means a person who is a social worker licensed by the Kansas board of behavioral sciences.

(jj) "Tardive dyskinesia" means an extrapyramidal syndrome characterized by rhythmic, repetitive stereotypic movements that can occur following prolonged treatment with neuroleptic medication. (Authorized by and implementing K.S.A. 39-932; effective May 16, 1994.)

28-39-229. Resident rights. (a) No resident shall be presumed to be incompetent, to forfeit any legal rights, responsibility or obligation, or to suffer any legal disability as a citizen, unless otherwise prescribed by law, as a consequence of receiving care or treatment in a nursing facility for mental health.

(1) Each resident shall have the right to be evaluated, treated and habilitated in the least restrictive environment possible.

(2) Each resident shall have the right to contact a representative at the local community mental health center about their care and treatment.

(3) Each resident shall be given free access to the surrounding local community.

(4) Each resident shall have the right to have daily opportunities for physical exercise and outdoor recreation.

(5) Each resident shall have the right to have access to current newspapers, magazines and radio and television programming.

(6) Each resident shall have, at a minimum, the right at all times to communicate by unopened mail with his or her immediate family, case manager, legal representative, and representatives from the Kansas department on aging, Kansas department of social and rehabilitation services and the Kansas department of health and environment.

(b) Resident work. Services performed by the resident shall be identified within the mental health plan of care.

(1) A resident engaged in work of benefit to the facility shall be paid wages according to U.S. department of labor requirements.

(2) Residents performing work for the facility shall not be used to replace paid employees to fulfill staffing requirements.

(3) Residents shall not be denied the opportunity to volunteer for work.

(4) Residents working outside the facility shall be protected by the facility from exploitation.

(c) Choice. Activities shall allow maximum flexibility for residents to exercise choice regarding what they will do and when they will do it. Residents' individual preferences regarding such things as menus, clothing, religious activities, friendships, activity programs, entertainment, sleeping, eating and times to retire at night and arise in the morning shall be elicited and considered by the facility.

(d) Communications. Each resident may communicate, associate, and meet privately with persons of the resident's choice, unless to do so would infringe upon the rights of other residents.

(e) Mail. Arrangements shall be made to provide aid to residents who require assistance in reading or sending mail.

(f) Visitors. Space shall be provided for residents to receive visitors in comfort and privacy.

(g) Activities. Residents who wish to meet with, or participate in, activities of social, religious or community groups in or outside the facility, shall be informed, encouraged, and assisted to do so.

(h) Residents shall be permitted to leave the facility and its surroundings at reasonable times unless there are justifiable reasons established in writing by the attending physician, mental health professional, or facility administrator for denying permission. (Authorized by and implementing K.S.A. 39-932; effective May 16, 1994.)

28-39-230. Admission, transfer and discharge. (a) The commitment of a resident to a nursing facility for mental health shall not be permitted.

(b) Persons identified by the admitting physician as being a danger to themselves or others shall not be admitted to nursing facilities for mental health.

(c) Each resident shall have established at admission an initial plan of care based on the physician's admitting diagnosis.

(d) Each resident's mental health plan of care shall include a discharge plan.

(e) Each resident shall have the right to request a review of progress for discharge at any scheduled regular review. (Authorized by and implementing K.S.A. 39-932; effective May 16, 1994.)

28-39-231. Resident behavior and facility practices. (a) Psychotropic medication shall

only be prescribed and used for a resident's treatment program following:

(1) Receipt of informed consent from the resident, or the resident's legal representative;

(2) documentation in the resident's record of the rationale for the use of the medication; and

(3) implementation of an objective monitoring system to determine the impact of the medication on the resident's behavior.

(b) Seclusion shall not be utilized in nursing facilities for mental health.

(c) Restraints shall not be applied to a resident unless it is determined to be required to prevent substantial body injury to the resident or others, and a physician's order and informed consent for the use of the restraint has been obtained.

(1) The extent of the use of restraints shall be the least restrictive necessary to prevent injury.

(2) Standing or "prn" orders for restraint shall be prohibited.

(d) The record of each resident for whom restraint is used shall contain complete information about restraint use that includes:

(1) The informed consent of the resident or the resident's legal representative for the use of the restraint;

(2) the clinical assessment done before the resident was restrained;

(3) the circumstances that led to the use of the restraint;

(4) an explanation of less restrictive measures used before restraint was applied;

(5) the physician's orders for the restraint;

(6) recordings of consistent observation of the resident at least every 15 minutes, or more frequently if needed, to monitor general well-being including vital signs, respirations, circulation, positioning and alertness as medically indicated;

(7) a description of the resident's activity at the time of observation that includes verbal exchanges and behavior;

(8) a description of safety procedures taken at restraint implementation;

(9) a recording of release from the mechanical restraint and exercise and massage every two hours;

(10) recordings of intake of food and fluid; and

(11) recording of use of the toilet.

(e) A resident shall not be allowed to participate in the restraint of another resident.

(f) There shall be written policies that address the basic assumption and philosophy that govern

the use of restraint and who may authorize the use of restraint.

(g) During any period of restraint, the facility shall provide for the emotional and physical needs of the resident.

(h) The resident shall be informed of the reason for the restraint and the conditions for release. The resident's legal representative shall be notified within 24 hours of initiation of the use of restraints.

(i) Only persons who have documented training in restraint theory and techniques shall be authorized to assist with the restraint of a resident.

(j) Behavior management programs shall emphasize positive modification practices utilizing current reinforcement theory standard of practice.

(k) Motivation systems shall be based on the principles of positive reinforcement.

(l) Facility motivational systems shall not implement group punishment for the inappropriate behavior of a resident or more than one resident. (Authorized by and implementing K.S.A. 39-932; effective May 16, 1994.)

28-39-232. Quality of life; activity programs. (a) Each nursing facility for mental health shall have an organized activity program which is managed by an activity director and is directed toward community integration.

(b) The activity program plan for the facility shall be based on the needs identified in the comprehensive assessment of each resident and on interests expressed by individual residents.

(c) Activities shall be offered at least daily.

(d) Activities offered shall be varied and shall be planned for individuals, small groups or large groups with opportunities for involvement in the local community.

(e) Monthly calendars of activities offered shall be prepared in advance and shall be kept for three months. (Authorized by and implementing K.S.A. 39-932; effective May 16, 1994.)

28-39-233. Resident assessment. (a) An assessment upon admission for each resident shall be completed and shall include, but not be limited to a statement of presenting problems.

(b) Prior to the development of the mental health plan of care, a comprehensive assessment shall be completed within 14 days after admission for each resident and shall include but not be limited to:

(1) The minimum data set plus prepared by a registered nurse;

(2) psychosocial assessment prepared by a mental health professional to determine strengths and weaknesses in:

(A) Living arrangements;

(B) financial resources;

(C) vocational and educational skills;

(D) leisure pursuits;

(E) social support structures; and

(F) previous compliance with treatment programs; and

(3) a social history which includes:

(A) Family background;

(B) educational history; and

(C) employment history. (Authorized by and implementing K.S.A. 39-932; effective May 16, 1994.)

28-39-234. Quality of care. (a) Each facility shall develop and provide a system of mental health treatment and medical care for all residents including all aspects of care from admission through discharge. The system shall include the following provisions.

(1) Each facility shall conduct for each resident an admission assessment based upon information from available sources and document the findings in the resident's record.

(2) Each facility shall write an initial treatment plan for each resident based on the admission assessments which will be used to guide the treatment provided for the resident with necessary documented revisions until the implementation of the mental health plan of care.

(3) Each facility shall conduct and document in each resident's record comprehensive assessments that will be used to formulate the mental health plan of care.

(4) Each facility shall write and implement the mental health plan of care with necessary revisions through the course of each resident's stay.

(5) Each facility shall identify and document in each resident's record a discharge plan that integrates the wishes of the resident or legal representative.

(b) A mental health plan of care for each resident shall be developed by an interdisciplinary team including the resident or the resident's legal representative, or both, within 21 days after admission. The resident, or the resident's legal representative has the ultimate authority to accept or reject the plan. The mental health plan of care

shall be approved and have its progress monitored by a mental health professional.

(1) The mental health plan of care shall be based on the comprehensive assessments and directed toward objective resident outcome.

(2) Each facility shall assist each resident in obtaining access to academic services, community living skills training, legal services, self-care training, support services, transportation, treatment and vocational education as needed. These services may be provided by the facility or obtained from other providers.

(3) Services to each resident shall be provided in the least restrictive environment and shall incorporate the use of community experiences when relevant.

(4) If needed services are not available and accessible, the facility shall document the actions taken to locate and obtain those services. The documentation shall identify needs which will not be met because of the lack of available services and why they cannot be met.

(5) The mental health plan of care shall be written, dated, signed by the interdisciplinary team members, including the resident, and maintained in the resident's record.

(6) The mental health plan of care shall include:

- (A) Medical directives;
- (B) behaviorial directives;
- (C) specific services to be provided;
- (D) persons or agency responsible for providing services;
- (E) beginning dates for services;
- (F) anticipated duration of services; and
- (G) a discharge plan.

(7) The mental health plan of care shall identify the procedure to be used to determine whether the objectives were achieved. This procedure shall incorporate a process for ongoing review and revision.

(8) The interdisciplinary team shall review the mental health plan of care for each resident at least quarterly and at the time a resident's condition changes. The interdisciplinary team review shall include a written report in the resident's record which addresses:

- (A) The resident's progress toward objectives;
- (B) the need for continued services;
- (C) recommendations concerning alternative services or living arrangements; and
- (D) those persons involved in the review and the date of the review.

(9) Each facility shall develop procedures for recording implementation and progress of the activities of the mental health plan of care and the resident's response. These procedures shall include the following provisions.

(A) A written progress note shall be placed in the resident's record following the delivery of each single service required by the mental health plan of care.

(B) A weekly summary shall be written by the staff and placed in the resident's record for services provided more than once a week.

(C) All progress and summary notes shall be signed and dated by the person who provides the service.

(D) Additional entries shall be provided in the resident's record when significant incidents occur.

(E) Notes shall be written in specific terms based on behaviorial observations and activity responses of the resident. Entries that involve subjective interpretations of a resident's behavior or progress shall be clearly identified and shall be supplemented with descriptions of behavior upon which the interpretation was based.

(c) There shall be written policies and procedures concerning crisis intervention. These policies and procedures shall be:

- (1) Directed to maximizing the growth and development of the resident by listing a hierarchy of available alternative methods that emphasize positive approaches;
- (2) available in each program area and living unit;
- (3) available to residents and their families; and
- (4) developed with the participation, as appropriate, of residents served. (Authorized by and implementing K.S.A. 39-932; effective May 16, 1994.)

28-39-235. Nursing services. (a) Each nursing facility for mental health shall employ or have on contract a psychiatric nurse who shall perform a monthly written evaluation of each resident's response to the mental health plan of care.

(b) A registered nurse shall perform for each resident receiving psychotropic medication an annual evaluation for tardive dyskinesia based on an industry-wide accepted test.

(c) Each nursing facility for mental health shall have a licensed nurse on duty at all times.

(d) Each facility shall have a registered nurse on duty at least eight hours a day, seven days a week.

(e) Each facility with 41 or more beds shall have an additional licensed nurse on duty during the working shift of the director of nursing.

(f) Each facility shall provide sufficient direct care staff to manage and supervise residents in accordance with each resident's mental health plan of care.

(g) Each facility shall provide sufficient support staff so that direct care staff are not required to perform cleaning, dietary and maintenance tasks to the extent that those duties interfere with the exercise of their primary direct care duties. (Authorized by and implementing K.S.A. 39-932; effective May 16, 1994.)

28-39-236. Dietary services. (a) Residents shall be encouraged to participate in meal planning, food purchasing, food preparation, table setting, serving, dishwashing and cleanup.

(b) The facility shall be responsible for assisting residents in learning what constitutes good nutritional practices.

(c) Menus shall be developed with input on food preferences from residents.

(d) Menus shall include a variety of foods prepared in various ways.

(e) Menus shall be written for a minimum of a three week cycle in which meals are not repeated. (Authorized by and implementing K.S.A. 39-932; effective May 16, 1994.)

28-39-237. Physician services. For each resident having a psychiatric diagnosis, a written agreement for the provision of psychiatric services or consultation shall be entered into if primary services are provided by a physician other than a psychiatrist. (Authorized by and implementing K.S.A. 39-932; effective May 16, 1994.)

28-39-238. Infection control. (a) Each facility shall provide a sanitary environment and shall follow proper techniques of asepsis, sterilization, and isolation.

(b) Each facility shall have written policies and procedures for aseptic and isolation techniques. Those policies and procedures shall be followed by all employees. If the facility does not have the capability of caring for a resident with an infectious disease, the written policies shall include provisions for handling the case until arrangements can be made to transfer the resident to an appropriate facility.

(c) Each facility shall have, and follows, written

procedures to insure safe disposal of infectious waste and materials.

(d) Each facility shall have, and follow, written procedures to monitor the health status of all employees.

(e) Each ice storage container shall be kept clean, and ice and ice scoops shall be handled in a sanitary manner to prevent contamination. (Authorized by and implementing K.S.A. 39-932; effective May 16, 1994.)

28-39-239. Administration. (a) Each licensed nursing facility for mental health shall have an administrator, duly approved by the Kansas department of health and environment who acts in a professional capacity in accordance with regulations governing the operation of a nursing facility for mental health.

(b) Each nursing facility for mental health shall adopt and enforce written policies relative to:

(1) The health care, safety, psychosocial, and self-esteem needs of the residents;

(2) the protection of personal and property rights of residents; and

(3) emergency medical procedures.

(c) Each nursing facility for mental health shall maintain an affiliation agreement with the community mental health center within its service area. Such affiliation agreement shall, at a minimum, address the following:

(1) Provisions for any services to be provided to the nursing facility for mental health or its residents by the community mental health center; and

(2) mechanisms which insure coordination and planning with the community mental health center for any resident being discharged from the nursing facility for mental health to the community, or to any other institution or hospital. (Authorized by and implementing K.S.A. 39-932; effective May 16, 1994.)

28-39-240. Administration. (a) The assisted living or residential health care facility shall be operated in a manner ensuring that residents receive the care and services as specified in each negotiated service agreement.

(b) The licensee shall appoint an administrator or operator who meets the following criteria:

(1) Is at least 21 years of age;

(2) possesses a high school diploma or the equivalent;

(3) holds a Kansas license as an adult care home administrator or has successfully completed

an operator training program as designated by the secretary; and

(4) has authority and responsibility for the operation of the facility and compliance with licensing requirements.

(c) A facility may request approval from the department for an administrator or operator to supervise more than one assisted living or residential health care facility. Each request shall be submitted, in writing, by the governing bodies of the facilities on a form approved by the department.

(1) An administrator may supervise more than one assisted living or residential health care facility, if all of the following conditions are met:

(A) Each facility is located within a proximate geographical location.

(B) The combined resident capacity does not exceed 120 residents.

(C) The administrator assures that the lack of full-time, on-site supervision of the facility will not adversely affect the health and welfare of residents.

(2) Each operator may supervise more than one assisted living or residential health care facility, if all of the following conditions are met:

(A) Each facility is located within a proximate geographical location.

(B) The combined resident capacity does not exceed 60 residents.

(C) The operator assures that the lack of full-time, on-site supervision of the facility will not adversely affect the health and welfare of residents.

(3) Before a change in administrator or operator occurs, the facilities shall submit the credentials of the proposed new administrator or operator for approval by the department.

(d) Each licensee shall adopt a written position description for the administrator or operator that includes responsibilities for the following:

(1) Planning, organizing, and directing the facility;

(2) implementing operational policies and procedures for the facility; and

(3) authorizing, in writing, a responsible employee 18 years old or older to act on the administrator's or operator's behalf in the absence of the administrator or operator.

(e) Each administrator or operator shall ensure that written policies and procedures are developed and implemented that incorporate the principles of individuality, autonomy, dignity, choice, privacy, and a home-like environment for each

resident. The following provisions shall be included in the policies and procedures:

(1) The recognition of each resident's rights, responsibilities, needs, and preferences;

(2) the freedom of the resident or resident's legal representative to select or refuse a service and to accept responsibility for the consequences;

(3) the development and maintenance of social ties for the resident by providing opportunities for meaningful interaction and involvement within the facility and the community;

(4) furnishing and decorating the resident's personal space;

(5) the recognition of personal space as private and the sharing of an apartment or individual living unit only when agreed to by each resident;

(6) the maintenance of the resident's lifestyle if there are not adverse effects on the rights and safety of other residents; and

(7) the resolution of complaints through a specific process that includes a written response to written complaints within 30 days.

(f) Staff treatment of residents. Each facility shall develop and implement written policies and procedures that prohibit abuse, neglect, and exploitation of residents. Each facility shall meet the following requirements:

(1) Not use verbal, mental, sexual or physical abuse, including corporal punishment and involuntary seclusion;

(2) not employ any individual who has been identified on the state nurse aide registry as having abused, neglected, or exploited residents in an adult care home;

(3) ensure that all allegations of abuse, neglect, or exploitation are investigated and reported immediately to the administrator or operator of the facility and to the department;

(4) provide evidence that all alleged violations are thoroughly investigated and take measures to prevent further potential abuse, neglect, and exploitation while the investigation is in progress;

(5) report the results of all facility investigations to the administrator, operator, or designated representative;

(6) maintain a written record of all investigations of reported abuse, neglect, and exploitation; and

(7) take appropriate corrective action if the alleged violation is verified.

(g) Policies and procedures related to resident services shall be available to staff at all times and to residents, legal representatives of residents,

families, and case managers during normal business hours. A notice of availability shall be posted in a readily accessible place for residents.

(h) Power of attorney, guardianship, and conservatorship. A power of attorney, durable power of attorney for health care decisions, guardianship, or conservatorship shall not be accepted by anyone employed by or having a financial interest in the facility, unless the person is related to the resident by marriage or blood within the second degree.

(i) Reports. Each administrator or operator shall submit to the licensing agency, not later than 10 days following the period covered, a semiannual report of residents and employees. The administrator or operator shall submit the report on forms provided by the licensing agency and shall submit other reports as required by the licensing agency.

(j) Telephone. The facility shall maintain at least one non-coin-operated telephone accessible to residents and employees for use in emergencies. The facility shall post the names and telephone numbers of persons or places commonly required in emergencies, adjacent to this telephone.

(k) The facility shall post the names, addresses, and telephone numbers of the Kansas department of health and environment and the office of the long-term care ombudsman with information that these agencies may be contacted to report actual or potential abuse, neglect, or exploitation of residents or to register complaints concerning the operation of the facility. This information shall be posted in a public area accessible to all residents and the public.

(l) A copy of the most recent survey report and plan of correction shall be readily accessible in a public area to residents and other individuals wishing to examine survey results. (Authorized by and implementing K.S.A. 39-932; effective Feb. 21, 1997; amended Oct. 8, 1999.)

28-39-241. Community governance. (a) The assisted living or residential health care facility shall facilitate the organization of a council which will meet regularly to provide residents with a forum to provide input into community governance.

(b) The facility shall accommodate the council process by providing space for the meetings, posting notices of the meetings and assisting residents who wish to attend the meetings.

(c) In order to permit a free exchange of ideas and concerns, meetings shall be conducted without the presence of facility staff, except when allowed by residents.

(d) The administrator or operator shall respond to each written idea and concern from the council in writing within 30 days after the meeting, with a copy of the response provided to the council. Copies of the written ideas or concerns and the responses shall be available to surveyors. (Authorized by and implementing K.S.A. 39-932; effective Feb. 21, 1997.)

28-39-242. Admission, transfer and discharge. (a) Each assisted living or residential health care facility shall develop and implement written admission, transfer and discharge policies which protect the rights of residents as required by K.A.R. 28-39-148. In addition, the facility shall not admit or retain residents who have one or more of the following conditions unless the negotiated service agreement includes hospice or family support services which are available 24 hours a day or similar resources:

(1) Incontinence, where the resident cannot or will not participate in management of the problem;

(2) immobility, where the resident requires total assistance in exiting the building;

(3) any ongoing condition requiring a two-person transfer;

(4) any ongoing skilled nursing intervention needed 24 hours a day for an extended period of time; or

(5) any behavioral symptom that exceeds manageability.

(b) The facility shall not admit or retain residents whose clinical condition requires the use of physical restraints.

(c) The facility shall not charge a rental fee beyond the date dated in a 30-day written notice of discharge provided by a resident or resident's legal representative or by the facility as required by K.A.R. 28-39-148 (d). (Authorized by and implementing K.S.A. 39-932; effective Feb. 21, 1997.)

28-39-243. Resident functional capacity screen. (a) On or before admission to an assisted living or residential health care facility, a licensed nurse, licensed social worker or the administrator or operator shall conduct a functional capacity screen on each resident as specified by the secretary. A facility may choose to integrate the specified screen in an instrument developed by the

facility. Each element and definition as specified by the secretary shall be included in the facility functional capacity screen.

(b) A functional capacity screen shall be conducted at least annually, or following a significant change in the resident's physical, mental or psychosocial functioning which would require a change in the negotiated service agreement.

(c) The functional capacity screen shall be used as a basis for determining the services to be included in the negotiated service agreement. (Authorized by and implementing K.S.A. 39-932; effective Feb. 21, 1997.)

28-39-244. Negotiated service agreement. (a) The assisted living or residential health care facility shall develop, in collaboration with the resident, the resident's legal representative, family, if agreed to by the resident, or case manager, a written negotiated service agreement based on service needs or preferences of the resident. The negotiated service agreement shall:

- (1) Describe the services to be provided;
- (2) identify the provider of the service or services; and
- (3) identify the party or parties responsible for payment when services are provided by an outside resource.

(b) The negotiated service agreement shall support the dignity, privacy, choice, individuality, and autonomy of the resident.

(c) A licensed nurse employed by the facility, a home health agency or by the resident shall participate in the development of the negotiated service agreement when the resident's functional capacity screen indicates the need for health care services.

(d) An initial negotiated service agreement shall be developed at admission.

(e) The negotiated service agreement shall be reviewed at least annually, revised if necessary, and revised more frequently if requested by the resident, the resident's legal representative, the family, if agreed to by the resident, the case manager or the facility. A licensed nurse shall be involved in revisions related to health care services.

(f) When the resident or the resident's legal representative refuses a service which the administrator or operator, the licensed nurse, the resident's physician or the case manager believes is necessary for the resident's health and safety, the negotiated service agreement shall include the following:

- (1) The service or services refused;
- (2) identification of potential negative resident outcomes if the service or services are not provided; and
- (3) acceptance by the resident or the resident's legal representative of the potential risk.

(g) The negotiated service agreement shall not include situations in which the lack of a service has the potential to affect the health and safety of other residents, facility staff or the public.

(h) Each individual involved in the development of the negotiated service agreement shall sign the agreement. A copy of the initial agreement and subsequent revisions shall be provided to the resident or the resident's legal representative.

(i) The facility shall ensure that each resident receives services according to the provisions of the negotiated service agreement.

(j) When the resident's negotiated service agreement includes the use of outside resources, the facility shall:

- (1) Provide the resident, the resident's legal representative, the family, if agreed to by the resident, and the case manager a list of service providers available to provide the needed service;
- (2) assist the resident, when requested, in contacting outside resources for services; and
- (3) monitor the services provided by the outside resource and act as an advocate for the resident when services do not meet professional standards of practice. (Authorized by and implementing K.S.A. 39-932; effective Feb. 21, 1997.)

28-39-245. Services. (a) The assisted living or residential health care facility shall provide or coordinate a range of services as specified in the negotiated service agreement.

(b)(1) The range of services may include the following:

(A) Daily meal service, based on the resident's needs and specified in the negotiated service agreement;

(B) health care services based on an assessment by a licensed nurse and as specified in the negotiated service agreement;

(C) housekeeping services essential for the health, comfort, and safety of residents as specified in the negotiated service agreement;

(D) medical, dental, and social transportation as specified in the negotiated service agreement;

(E) planned group and individual activities that

meet the needs and interests of the resident as specified in the negotiated service agreement; and

(F) other services necessary to support the health and safety of the resident as specified in the negotiated service agreement.

(2) An assisted living or residential health care facility may provide adult day care services to any individual whose physical, mental, and psychosocial needs can be met by intermittent nursing, psychosocial, and rehabilitative or restorative services if the facility meets all of the following conditions:

(A) The assisted living or residential health care facility develops written policies and procedures for the provision of adult day care services.

(B) The assisted living or residential health care facility develops criteria for the admission and retention of residents receiving adult day care services.

(C) The assisted living or residential health care facility maintains a clinical record of services provided to residents in the adult day care program.

(D) The provision of adult day care services does not adversely affect the care and services offered to other residents of the facility.

(3)(A) An assisted living or residential health care facility may provide respite care to individuals who meet the facility's admission and retention criteria on a short-term basis if the facility meets both of the following conditions:

(i) The facility develops policies and procedures for the provision of respite care.

(ii) All requirements for admission of a resident to an assisted living or residential health care facility are met for an individual admitted for respite care.

(B) The facility may obtain an order from the resident's physician indicating that the resident may return to the resident's home on a temporary basis and return to the facility at a time determined by the resident.

(4) An assisted living or residential health care facility may choose to serve residents who have special needs in a special care section of the facility or the entire facility if the following conditions are met:

(A) The facility develops admission and discharge criteria that identify the diagnosis, behavior, or specific clinical needs of the residents to be served. The medical diagnosis, physician's progress notes, or both shall justify admission to the facility or special care section of the facility.

(B) A written physician's order is required for admission.

(C) Direct care staff are present in the facility or section at all times.

(D) Before admission to facility or the special care section, the facility informs the resident or resident's legal representative, in writing, of the services and programs available that are specific to the needs of the specific group of residents to be served.

(E) The facility provides a training program for each staff member before assignment to the facility or unit related to the specific needs of the residents to be served. Evidence of completion of the training shall be on file in the employee's personnel records.

(F) The facility develops and implements policies and procedures for the operation of the special care facility or section.

(G) The facility provides living, dining, activity, and recreational areas within the special care unit except when residents are able to access living, dining, activity, and recreational areas in another section of the facility.

(H) The functional capacity screen indicates that the resident would benefit from the program offered by the facility or special care section.

(I) The control of exits is the least restrictive possible for the residents in the section.

(c) Routine maintenance and repairs of resident apartments or individual living units and common areas inside and outside the facility shall be provided and specified in the admission agreement.

(d) If the facility chooses not to provide or coordinate any service as specified in K.A.R. 28-39-245 (b), the facility shall notify the resident, in writing, on or before admission to the facility. (Authorized by and implementing K.S.A. 39-932; effective Feb. 21, 1997; amended Oct. 8, 1999.)

28-39-246. Health care services. (a) The assisted living or residential health care facility shall provide or coordinate the provision of health care services to each resident according to the provisions of the negotiated service agreement.

(b) If the functional capacity screen indicates that a resident is in need of health care services, a licensed nurse in collaboration with the resident, the resident's legal representative, the family, if agreed to by the resident, and case manager, shall develop a health care service plan to be included in the negotiated service agreement.

(c) Health care services provided by or coordinated by the facility may include the following:

(1) Personal care provided by the facility's direct care staff, a home health agency, or gratuitously by friends or family members; or

(2) supervised nursing care provided by a licensed nurse employed by the facility, a home health agency, or the resident.

(d) The negotiated service agreement shall contain a description of the health care services to be provided and the name of the licensed nurse responsible for the implementation and supervision of the plan.

(e) Nursing procedures not included in the nurse aide or medication aide curriculums may be delegated to unlicensed direct care staff by a licensed nurse under the Kansas nurse practice act, K.S.A. 1995 Supp. 65-1124.

(f) The facility shall be responsible for assuring that a licensed nurse is available on site or by phone to provide immediate direction to medication aides and nurse aides for residents who have unscheduled needs. The licensed nurse may be an employee of the facility or a licensed nurse employed by a home health agency.

(g) Skilled nursing services.

(1) Skilled nursing services shall be provided in accordance with K.S.A. 1995 Supp. 39-923 (a).

(2) The skilled nursing plan in the negotiated service agreement shall include the service to be provided and the name of the licensed nurse or agency responsible for providing the service.

(3) The licensed nurse providing the skilled nursing service shall document the service and the outcome of the service in the resident's record.

(4) A physician's order for the skilled nursing service shall be documented in the resident's record in the facility. A copy of the physician's order from a home health agency's record may be used. Physician orders in the clinical records of a home health agency located in the same building as the facility may be used as long as the clinical records are available to direct care staff of the facility.

(5) The licensed nurse providing the skilled service shall arrange for availability of a licensed nurse by phone to meet unscheduled needs related to the skilled nursing service.

(6) Wellness and health monitoring may be provided by a licensed nurse according to provisions in the resident's negotiated service agreement. (Authorized by and implementing K.S.A. 39-932; effective Feb. 21, 1997).

28-39-247. Medication management in assisted living and residential health care facilities. (a) Self-administration of medications.

(1) A resident may manage and self-administer that individual's own medications if an assessment by a licensed nurse or physician has determined that the resident can perform this function safely and accurately. The assessment shall include the following information:

(A) An evaluation of the resident's physical, cognitive, and functional ability to manage that individual's own medications; and

(B) an entry in the resident's clinical record.

(2) A resident who self-administers medications may select medications to be administered by a licensed nurse employed by the facility, a home health agency, or a hospice, or by a medication aide employed by the facility. The negotiated service agreement shall reflect this service and shall identify who will be responsible for management of the selected medications.

(3) Medication reminding may be performed by staff if the medications are selected by the resident. Medication reminding shall be limited to the following:

(A) Inquiry as to whether the medication was taken; and

(B) verbal prompting to take medications.

(b) Self-administration of medications with assistance.

(1) A resident may self-administer medications with the use of prefilled medication reminder boxes or prefilled syringes, if an assessment has been performed by a licensed nurse and a determination has been made that the resident can safely and accurately administer the preselected medications, using medication reminder boxes or prefilled syringes, without further staff assistance. The licensed nurse may be employed by the facility, a home health agency, a hospice, or the resident.

(A) The assessment shall include an evaluation of the resident's physical, cognitive, and functional ability to safely and accurately administer medications using medication reminder boxes or prefilled syringes.

(B) Assessments shall be performed when the resident is admitted and before the resident begins to self-administer medications with assistance; assessments shall also be performed following a significant change in condition and at least annually. Each assessment shall be maintained in the resident's clinical record.

(C) The licensed nurse or pharmacist who pre-fills the resident's medication boxes or syringes shall ensure that all drugs are selected and prepared in accordance with a physician's written order.

(D) The licensed nurse or pharmacist shall ensure that both of the following conditions are met:

(i) Medication reminder boxes are labeled with the resident's name and date the box was prefilled.

(ii) A label is placed on the medication box, or a medication administration record is provided to the resident, either of which includes the name and dosage of each drug and the time the drug will be self-administered by the resident.

(2) A resident who self-administers with assistance may request that selected medications be managed by a licensed nurse employed by the facility, a home health agency, or a hospice, or by a medication aide employed by the facility, if the resident believes that individual to be unable to perform this function safely.

(3) A licensed nurse employed by the facility, a home health agency, or the resident shall develop a health services plan that provides directions to unlicensed staff related to the resident's drug regimen when a pharmacist prefills the resident's medication reminder boxes or syringes.

(4) Medication reminding by staff shall be permitted if all of following conditions are met:

(A) The medications are preselected for the resident by a licensed nurse, family member, or pharmacist.

(B) The medication reminding is limited to the following:

(i) Making inquiries as to whether or not medication was taken;

(ii) handing the appropriately labeled prefilled medication reminder box or syringe to the resident; and

(iii) opening the appropriately labeled prefilled medication reminder box, if the resident is unable to open the container.

(C) Medication reminding does not include taking the medication out of the medication reminder box.

(c) Facility management of medications. When a facility is responsible for the management of a resident's medications, the facility shall ensure that all drugs are administered to each resident in accordance with a physician's written order. The facility shall ensure that all of the following conditions are met:

(1) All drugs, except parenteral drugs, are administered by physicians, licensed nurses, or medication aides.

(2) Parenteral drugs shall be administered only by a physician or licensed nurse.

(3) All drugs are prepared and administered by the same person.

(4) The resident is identified before administration of the drug.

(5) The dose administered is recorded on the resident's individual drug record by the person who administers the drug.

(d) Medications may be preselected or administered by family members or friends gratuitously pursuant to K.S.A. 65-1124(a), and amendments thereto.

(e) Ordering and labeling.

(1) All drugs and biologicals administered by the facility or preselected for residents by a licensed nurse shall be ordered pursuant to a written order issued by a physician.

(2) The dispensing pharmacist shall label each prescription container in accordance with K.A.R. 68-7-14.

(3) Over-the-counter drugs. The facility shall ensure that each over-the-counter drug delivered to the facility is in the original, unbroken manufacturer's package. The pharmacist or licensed nurse shall place the full name of the resident on the package. If over-the-counter drugs are removed from the original manufacturer's package, other than for administration, the pharmacist shall label the drug as required for prescription drugs.

(4) Physicians, advanced registered nurse practitioners, and physician assistants shall give verbal orders for drugs only to a licensed nurse, pharmacist, or another physician. The licensed nurse, physician, or pharmacist shall immediately record the verbal order in each resident's clinical record. The physician shall countersign all verbal orders within seven working days after the receipt of the verbal order.

(5) Residents who self-administer medications may request that the facility staff reorder the medications from the pharmacy of the resident's choice. Staff who perform this function shall be authorized to administer medications.

(f) Storage.

(1) All drugs managed by the facility shall be stored safely, securely, and properly, following manufacturer's recommendations or those of the supplier and in accordance with federal and state laws and regulations.

(2) Residents who self-administer medications or self-administer medications with assistance shall store the medications in a place that is accessible only to the resident and persons authorized to administer medications.

(3) A resident may request that the facility store a medication or medications when the resident is unable to provide proper storage as recommended by the manufacturer or pharmacy provider.

(4) All drugs and biologicals managed by the facility shall be stored in a locked cabinet or locked medication cart, and only those persons authorized to administer medications shall have access to the keys to the cabinet or cart.

(5) The facility shall ensure that there are records maintained of the receipt and disposition of all controlled substances managed by the facility so that there can be an accurate reconciliation.

(g) Records. The facility shall ensure that the following items are documented in the clinical records of all residents who self-administer medications with assistance or for whom the facility manages medications:

- (1) Physician orders for medications;
- (2) the pharmacy provider of the resident's choice;
- (3) any known drug allergies;
- (4) the date and time medications were selected for residents who required assistance with self-administration of medications; and
- (5) the date and time medications were administered to residents for whom the facility administers the medications.

(h) Drug regimen review.

(1) Each resident who self-administers medications shall be offered the opportunity to have a drug review conducted by pharmacist at least quarterly. If the resident refuses this service, the facility shall offer the service each time the resident experiences a significant change in condition or at least annually. Each facility shall maintain documentation of the resident's decision in the resident's clinical record.

(2) A pharmacist shall conduct a drug regimen review at least quarterly for all residents who self-administer their medications with assistance and for those residents whose medications are managed by the facility.

(3) A drug regimen review shall identify any potential or current drug-related problem, including the following:

(A) Lack of clinical indication for use of drug;

(B) subtherapeutic dose of any drug;

(C) failure of the resident to receive an ordered drug;

(D) drugs administered in excessive dosage, including duplicate therapy;

(E) adverse drug reactions;

(F) drug interactions; and

(G) lack of adequate monitoring.

(4) The facility shall report each variance identified in the drug regimen review to the resident's physician. If no response has been received from the physician within 30 days, the facility shall note the lack of response from the physician in the resident's records.

(5) The facility shall maintain a record of any drug regimen review performed in the resident's record. (Authorized by and implementing K.S.A. 39-932; effective Feb. 21, 1997; amended Oct. 8, 1999.)

28-39-248. Staff development. (a) The assisted living or residential health care facility shall provide orientation to new employees and regular inservice education for all employees to ensure that the services provided assist residents to attain and maintain their individuality, autonomy, dignity, independence, and ability to make choices in a home-like environment.

(b) Subjects in inservice education shall include the following:

- (1) Principles of assisted living;
- (2) fire prevention and safety;
- (3) disaster procedures;
- (4) accident prevention;
- (5) resident rights;
- (6) infection control; and
- (7) prevention of abuse, neglect, or exploitation of residents.

(c) Inservice education on treatment of behavioral symptoms shall be provided to all employees of facilities which admit residents with dementia. (Authorized by and implementing K.S.A. 39-932; effective Feb. 21, 1997.)

28-39-249. Staff qualifications. (a) The assisted living or residential health care facility shall provide sufficient numbers of qualified personnel to ensure that residents receive services and care in accordance with the negotiated service agreements.

(b) Employee records shall contain evidence of licensure, registration or certification of full-time, part-time and consultant staff.

(c) A health screening shall be performed on

each employee not later than seven days after employment. A copy of this health screening shall be maintained in the employee's file.

(d) Tuberculosis skin testing of employees shall be performed in accordance with the center for disease control recommendations in "Prevention and Control of Tuberculosis in Facilities Providing Long-Term Care to the Elderly," as published in Morbidity and Mortality Weekly Report, July 13, 1990. (Authorized by and implementing K.S.A. 39-932; effective Feb. 21, 1997.)

28-39-250. Resident records. (a) The assisted living and residential health care facility shall maintain a record for each resident in accordance with accepted professional standards and practices.

(b)(1) The facility shall maintain each resident's records for at least five years after the death or discharge of the resident.

(2) In the case of a minor, the facility shall maintain the resident's records for five years after the resident reaches 18 years of age.

(c) The facility shall keep confidential all information in the resident's records, regardless of form or storage method of the records, except when release is required by:

- (1) Transfer to another health care facility;
- (2) law;
- (3) third party payment contract; or
- (4) the resident or legal representative of the resident.

(d) The facility shall safeguard resident record information against loss, destruction, fire, theft or unauthorized used.

(e) The resident record shall contain at least the following:

- (1) The resident's name;
- (2) the dates of admission and discharge;
- (3) the admission agreement and any amendments;
- (4) the functional capacity screens;
- (5) the negotiated service agreement and any amendments;
- (6) the name, address and telephone number of the physician and dentist to be notified in an emergency;
- (7) the name and address of the legal representative or individual of the resident's choice to be notified in the event of a significant change in condition;
- (8) the physician's orders if the facility is man-

aging the resident's medications and medical treatments;

(9) the records of drugs, biologicals and treatments administered; and

(10) the documentation of all incidents, symptoms and other indications of illness or injury including the date, the time of occurrence, the action taken and the results of action. (Authorized by and implementing K.S.A. 39-932; effective Feb. 21, 1997.)

28-39-251. Disaster and emergency preparedness. (a) The assisted living and residential health care facility shall provide sufficient staff to promptly take residents who require assistance to the outside or to a point of safety in an emergency.

(b) The facility shall have a detailed written emergency management plan to manage potential emergencies and disasters including the following:

- (1) fire;
- (2) flood;
- (3) severe weather;
- (4) tornado;
- (5) explosion;
- (6) natural gas leak;
- (7) lack of electrical or water service;
- (8) missing residents; and
- (9) any other potential emergency situations.

(c) The facility shall have written agreements which will provide the following needed services:

- (1) fresh water;
- (2) evacuation site; and
- (3) transportation of residents to an evacuation site.

(d) The facility shall ensure disaster and emergency preparedness by:

(1) Orienting new employees at the time of employment to the facility's emergency management plan;

(2) periodically reviewing the plan with employees; and

(3) annually carrying out an emergency drill with staff and residents which includes evacuation of the building or to a safe area.

(e) The emergency management plan shall be available to staff, residents and visitors. (Authorized by and implementing K.S.A. 39-932; effective Feb. 21, 1997.)

28-39-252. Dietary services. The assisted living or residential health care facility shall provide or coordinate the provision of dietary services to residents as identified in residents' negotiated

service agreements. A facility that has a contract with an outside food management company shall be in compliance with this regulation if the company complies with these regulations.

(a) Staffing.

(1) Overall supervisory responsibility for dietetic services shall be the assigned responsibility of one employee.

(2) A dietetic services supervisor or a licensed dietitian shall provide scheduled onsite supervision in facilities with 11 or more residents.

(3) When the resident's negotiated service agreement includes the provision of a therapeutic diet, the diet served shall be based on instructions from a physician or licensed dietitian.

(b) Menus shall be planned in advance and shall be based on dietary guidelines for Americans, 4th edition, 1995, (HG #232), published by the U.S. department of agriculture and the department of health and human services.

(c) Foods shall be prepared by safe methods that conserve the nutritive value, flavor, and appearance, and shall be attractively served at the proper temperature.

(d) Menu plans shall be available to residents on at least a weekly basis.

(e) A method shall be established to incorporate input by residents in the selection of food to be served and the scheduling of meal service.

(f) Each resident may obtain, prepare and store food in the resident's apartment or individual living unit if doing so does not represent a health or safety hazard to the resident or others. Assistance with obtaining food shall be provided if included in the negotiated service agreement. (Authorized by and implementing K.S.A. 39-932; effective Feb. 21, 1997.)

28-39-253. Infection control. (a) The assisted living and residential health care facility shall provide a safe, sanitary and comfortable environment for residents.

(b) The facility shall develop and implement policies and procedures to prevent and control the spread of infections. These policies and procedures shall include the following:

(1) Universal precautions to prevent the spread of blood-borne pathogens;

(2) handwashing;

(3) laundry and proper handling of soiled and clean linens;

(4) food service sanitation;

(5) prohibiting employees with a communica-

ble disease or infected skin lesions from coming in direct contact with residents, residents' food, or resident care equipment until the condition is resolved;

(6) orientation of new employees and periodic employee inservice education on control of infections in a health care setting;

(7) tuberculosis skin testing of each new resident and employee as soon as residency or employment begins, unless the resident or employee has documentation of a previous significant reaction. Each facility shall follow the center for disease control recommendations for "Prevention and Control of Tuberculosis in Facilities Providing Long-term Care to the Elderly," as published in Morbidity and Mortality Weekly Report, July 13, 1990; and

(8) transfer of a resident with an infectious disease to an appropriate health care facility when the assisted living or residential health care facility is unable to provide the isolation precautions required to treat the infectious disease. (Authorized by and implementing K.S.A. 39-932; effective Feb. 21, 1997.)

28-39-254. Construction; general requirements. (a) The assisted living facility or residential health care facility shall be designed, constructed, equipped and maintained to protect the health and safety of residents, personnel and the public.

(b) All new construction, renovation, remodeling and changes in building use in existing buildings shall comply with building and fire codes, ordinances and regulations enforced by city, county, and state jurisdictions, including the state fire marshal.

(c) New construction, modifications and equipment shall conform to the following codes and standards:

(1) Title III of the Americans with disabilities act, 42 U.S.C. 12181, effective as of January 26, 1992; and

(2) "Food Service Sanitation Manual," health, education, and welfare (HEW) publication no. FDA 78-2081, as in effect on July 1, 1981.

(d) Site location requirements. The facility shall be:

(1) Served by all-weather roads and streets;

(2) free from noxious or hazardous smoke or fumes;

(3) at least 4,000 feet from concentrated live-

stock operations, including feedlots and shipping and holding pens;

(4) free of flooding for a 100-year period; and

(5) sufficient in area and configuration to accommodate the building or buildings, drives, parking, sidewalks, and an outdoor recreation area.

(e) Site development requirements.

(1) Final grading of the site shall provide for positive surface drainage away from the building and positive protection and control of surface drainage and freshets from adjacent areas.

(2) Except for lawn or shrubbery which may be used in landscape screening, an unencumbered outdoor open area shall be provided for recreation and shall be designated for that purpose on the plot plan. The licensing agency may approve outdoor areas provided by terraces, roof gardens, or similar provisions for facilities located in high density urban areas.

(f) General building exterior.

(1) Each exterior pathway or access to the facility's common use areas and entrance or exit ways shall be:

(A) made of hard smooth material;

(B) barrier free; and

(C) maintained in good repair.

(2) There shall be a means of monitoring each exterior entry and exit for security purposes.

(3) Outdoor recreation areas shall be provided and available to residents.

(g) General building interior.

(1) Each assisted living facility shall consist of apartments which contain at least the following:

(A) A sleeping area with a window which opens for ventilation and that conforms with minimum dimensions described in the uniform building code, section 1204 as in effect on January 26, 1992 for egress to the outside;

(B) a living area;

(C) a storage area with a door or doors, a shelf and a hanging rod accessible to the resident;

(D) a kitchen area equipped with a sink, a refrigerator, a stove or a microwave and space for storage of utensils and supplies. Provision shall be available to disconnect the stove if necessary for resident safety;

(E) a toilet room which contains a toilet, lavatory, and a bath tub or shower accessible to a resident with disabilities;

(F) an entrance door which has only one locking device which releases with operation of the

inside door handle. This lock shall be master-keyed from the corridor side; and

(G) at least 200 square feet of living space not including the toilet room, closets, lockers, wardrobes, other built-in fixed items, alcoves and vestibules.

(2) Any assisted living facility licensed before January 1, 1995, as an intermediate personal care facility shall not be required to have kitchens and private baths in apartments.

(3) Each residential health care facility shall provide individual living units which include at least the following:

(A) A sleeping area with a window which opens for ventilation and that conforms with minimum dimensions described in the uniform building code, section 1204 as in effect on January 26, 1992 for egress to the outside;

(B) a toilet room which contains a toilet, lavatory and a bathing unit accessible to a resident with disabilities;

(C) a storage area with a door, a shelf and a hanging rod accessible to the resident;

(D) an entrance door which has only one locking device which releases with operation of the inside door handle. This lock shall be master-keyed from the corridor side; and

(E) at least 100 square feet of living space not including the toilet room, closets, lockers, wardrobes, other built-in fixed items, alcoves, and vestibules.

(4) If a resident in a residential health care facility shares an individual living unit with another resident, there shall be at least 80 square feet of living space per resident.

(5) Any facility licensed as intermediate personal care home before January 1, 1995 shall not be required to have a bathing unit in each toilet room.

(6) Any nursing facility licensed on or before July 1, 1995 which wishes to license a section of the facility as a residential health care facility shall have private bathing facilities in at least 20 percent of the individual living units.

(7) The individual living units in any wing or floor of the nursing facility licensed as residential health care shall be contiguous.

(8) Any nursing facility which has changed licensure level in a wing or floor of the facility as found in paragraph (g)(6) of this regulation may change that wing or floor back to a nursing facility as long as all environmental elements required at the time of the initial change are met.

(h) Common use areas.

(1) Each entrance shall be at ground level and shall be accessible to individuals with disabilities.

(2) Except for adjoining use areas which have closely related functions, each common use area shall have access from a general corridor without passing through any intervening use area. Large open areas or central living areas, including living rooms, dining rooms and dens, may be considered to be corridors.

(i) Bathing room.

(1) There may be a bathing room with a mechanical tub and sufficient floor space to allow accessibility for a resident using a wheelchair.

(2) The room shall contain provisions for an individual heat control or a supplemental heat source and shall have an exhaust to the outside.

(3) A toilet and lavatory shall be accessible without entering the general corridor.

(j) Public restroom.

(1) There shall be a public restroom accessible to individuals with disabilities on each floor of the facility. This restroom shall be available to staff and visitors.

(2) The restroom shall contain a toilet, lavatory, waste container and a non-reusable method of hand drying.

(k) Dining room. The facility shall have a dining room or dining rooms with the capacity to seat all residents.

(l) Social and recreation areas. The facility shall have common areas for social and recreational use by residents.

(m) Public telephone. There shall be a local access public telephone accessible to individuals with disabilities in a private area that allows a resident or another individual to conduct a private conversation.

(n) Smoking. If smoking is allowed:

(1) A public use area or areas shall be provided for residents, visitors and employees in which smoke is exhausted to the outside; and

(2) the facility shall ensure that residents who desire to live in a smoke-free environment may do so.

(o) The facility shall ensure that residents who desire to receive mail without staff intervention may do so.

(p) Any assisted living facility or residential health care facility which is physically attached to a nursing facility may share common use areas with the nursing facility. However, the facility shall provide for at least one common living or

recreational area designated primarily for use by residents of the assisted living or residential health care facility. (Authorized by and implementing K.S.A. 39-932; effective Feb. 21, 1997.)

28-39-255. Support service areas. (a) The assisted living or residential health care facility shall provide the following:

(1) Space with a desk and telephone which can be used by direct care staff to chart and maintain resident records; and

(2) a locked medication storage area with a sink and a refrigerator in the same area for medications. The facility shall provide a separate locked compartment within the area for controlled drugs. A drug cart with a double locking system shall be acceptable. The facility shall provide storage for necessary medical supplies.

(b) Housekeeping and sanitation.

(1) The facility shall provide a locked janitor closet for storing supplies and equipment, with a floor or service sink.

(2) The facility shall provide space for storage of clean linen if linen service is included in the negotiated service agreements.

(c) Laundry facility.

(1) The facility shall store soiled laundry in a manner which prevents odors and spread of disease.

(2) If laundry is processed in the facility, the facility shall provide washing and drying machines. The facility shall arrange the work area to provide a "one-way flow" of laundry from a soiled area to a clean area.

(3) The facility shall provide a work counter and a locked cabinet for storage of chemicals and supplies.

(4) The facility shall provide a handwashing lavatory with a non-reusable method of hand-drying within or accessible to the laundry facility.

(d) Dietary areas. A dietary area or areas shall provide for sanitary meal preparation or service for residents.

(1) The facility shall provide disposal of waste by incineration, mechanical destruction, removal or a combination of these. The facility shall use containers with tightly fitting lids to store waste.

(2) Ceilings in the dietary areas shall be cleanable by dustless methods, such as vacuum cleaning or wet cleaning. These areas shall not have exposed or unprotected sewer lines.

(e) Assisted living or residential health care facilities which are physically attached to a nursing

facility may share support areas with the nursing facility. (Authorized by and implementing K.S.A. 39-932; effective Feb. 21, 1997.)

28-39-256. Details and finishes. (a) Details for assisted living or residential health care facilities shall include the following:

(1) Rooms containing bathtubs, showers or toilets available for use by residents shall be equipped with doors and hardware capable of being opened from the outside and shall permit access from outside the room in an emergency.

(2) Windows and outer doors which may be left in an open position shall be provided with insect screens. Windows shall be designed to prevent accidental falls when open or shall be equipped with security screens.

(3) Doors, sidelights, borrowed lights, and windows in which the glazing is within 18 inches or 46 centimeters of the floor shall be glazed with safety glass, wire glass, or plastic glazing material that will resist breaking and will not create dangerous cutting edges if broken. Similar materials shall be used in wall openings of recreation rooms and exercise rooms unless required otherwise for fire safety.

(4) Safety glass or plastic glazing as described in paragraph (a) (3) shall be used for shower doors and bath enclosures.

(5) Grab bars, or sufficient blocking installed in the walls to support a grab bar, shall be provided at all toilets, showers, and tubs accessible to residents.

(b) Finishes.

(1) Wall bases in kitchens, janitor's closets, laundries and resident bathrooms shall be made tightly sealed, and constructed without voids that can harbor insects.

(2) Wall finishes shall be washable and, in the immediate area of plumbing fixtures, shall be smooth and moisture-resistant. Finish trim, and wall and floor construction in dietary and food preparation areas shall be free from spaces that can harbor rodents and insects.

(3) Ceilings in the dietary, food preparation, and food storage areas shall be cleanable by dustless methods, such as vacuum cleaning or wet cleaning. Finished ceilings may be omitted in mechanical and equipment spaces, shops, general storage areas, and similar spaces unless required for fire protection purposes.

(4) Floor, wall and ceiling penetrations by pipes, ducts, and conduits shall be tightly sealed

to minimize entry of rodents and insects. Joints of structural elements shall be similarly sealed.

(5) Shower bases and tubs shall provide non-slip surfaces.

(c) Mechanical requirements.

(1) Heating, air conditioning, and ventilating systems.

(A) The systems shall be designed to maintain a year-round indoor temperature range of 70°F or 21°C to 85°F or 26°C.

(B) Each apartment or individual living unit shall allow the resident to control the temperature.

(2) Plumbing and piping systems.

(A) Backflow prevention devices or vacuum breakers shall be installed on fixtures to which hoses or tubing can be attached.

(B) Water distribution systems shall be arranged to provide hot water at outlets at all times. The temperature of hot water shall range between 98°F and 120°F at bathing facilities, sinks, and lavatories in resident use areas.

(3) Electrical requirements.

(A) All spaces occupied by persons or machinery and equipment within the buildings, approaches to buildings, and parking lots shall have adequate lighting.

(B) Minimum lighting intensity levels shall be as required in Table 1.

Table 1
Artificial Light Requirements

Place	Light measured in foot candles	Where Measured
Kitchen and other food preparation and serving areas	50	Counter level
Dining room	25	Table level
Living room or other common areas	15	Three feet above floor
Areas for reading or specialized areas (may be provided by a portable lamp)	50	Chair or table area
Corridors	10	Floor level
Stairways	20	Step level
Exits	5	Floor level
Resident Apartment or Individual living unit - General	20	Three feet above floor
Toilet room	50	Three feet above floor
Kitchen	50	Counter

(C) Each corridor and stairway shall remain lighted at all times.

(D) Each light in resident use areas shall be equipped with shades, globes, grids, or glass panels.

(4) Telephone service. Each unit or apartment shall have at least one telephone jack for each resident who desires phone service. (Authorized by and implementing K.S.A. 39-932; effective Feb. 21, 1997.)

28-39-257 to 28-39-274. Reserved.

28-39-275. Administration. (a) Each adult day care facility shall ensure that residents receive the necessary care and services, as described in the negotiated service agreement.

(b) Each licensee shall appoint an administrator or operator who shall meet the following criteria:

(1) Is at least 21 years of age;

(2) possesses a high school diploma or equivalent;

(3) holds a Kansas license as an adult care home administrator or has successfully completed an operator training program as designated by the secretary; and

(4) has the authority and responsibility for the operation of the facility and compliance with licensing requirements.

(c) A facility may request approval from the department for an administrator or operator to supervise more than one adult day care facility. Each request shall be submitted, in writing, by the governing bodies of the facilities on a form approved by the department.

(1) An administrator or operator may supervise more than one adult day care facility, if the following conditions are met:

(A) Each facility is located within a proximate geographical location.

(B) The combined resident capacity does not exceed 100 residents.

(C) The administrator or operator assures that the lack of full-time, on-site supervision of the facility will not adversely affect the health and welfare of residents.

(2) Before a change in administrator or operator occurs, the facilities shall submit the credentials of the proposed new administrator or operator for approval by the department.

(d) Each licensee shall adopt a written position description for the administrator or operator that includes responsibilities for the following:

(1) Planning, organizing, and directing the facility;

(2) implementing operational policies and procedures for the facility; and

(3) authorizing, in writing, a responsible employee 18 years old or older to act on the administrator's or the operator's behalf in the absence of the administrator or operator.

(e) Each administrator or operator shall ensure that written policies and procedures are developed and implemented that incorporate the principles of individuality, autonomy, dignity, choice, and privacy for each resident. The following provisions shall be included in these policies and procedures:

(1) The recognition of each resident's rights, responsibilities, needs, and preferences;

(2) the freedom of each resident or resident's legal representative to select or refuse a service and to accept responsibility for the consequences;

(3) the development and maintenance of social ties of the resident by providing opportunities for meaningful interaction and involvement within the facility and the community;

(4) the maintenance of each resident's lifestyle, if there are no adverse effects on the rights and safety of other residents; and

(5) the resolution of complaints through a specific process that includes a written response to written complaints within 30 days.

(f) Staff treatment of residents. Each facility shall develop and implement written policies and procedures that prohibit abuse, neglect, and exploitation of residents. Each facility shall meet the following requirements:

(1) Not use verbal, mental, sexual, or physical abuse, including corporal punishment and involuntary seclusion;

(2) not employ any individual who has been identified on the state nurse aide registry as having abused, neglected, or exploited residents in an adult care home;

(3) ensure that all allegations of abuse, neglect, or exploitation are investigated and reported immediately to the administrator of the facility and to the department;

(4) provide evidence that all alleged violations are thoroughly investigated and take measures to prevent further potential abuse, neglect, and exploitation while the investigation is in progress;

(5) report the results of all facility investigations of reported abuse, neglect, and exploitation;

(6) maintain a written record of all investigations of reported abuse, neglect, and exploitation; and

(7) take appropriate corrective action if the alleged violation is verified.

(g) Policies and procedures related to resident services shall be available to staff at all times and to all residents, legal representatives of residents, families, and case managers during normal business hours. A notice of availability shall be posted in a readily accessible place for residents.

(h) Power of attorney and guardianship. Anyone employed by or having a financial interest in the facility, unless the person is related by marriage or blood within the second degree to the resident, shall not accept a power of attorney, a durable power of attorney for health care decisions, a guardianship, or a conservatorship.

(i) Reports. Each administrator or operator shall submit to the department, within 10 days following the period covered, a semiannual report of residents and employees. The administrator or operator shall submit the report on forms provided by the department and shall submit other reports as required by the department.

(j) Telephone. Each facility shall maintain at least one non-coin-operated telephone accessible to residents and employees for use in emergencies. Each facility shall post the names and telephone numbers of persons or places commonly required in emergencies adjacent to this telephone.

(k) Smoking. If smoking is allowed in the facility, the following requirements shall be met:

(1) A public use area or areas shall be provided for residents, visitors, and employees who wish to smoke. The area or areas shall be provided with ashtrays and wastebaskets that are fire resistant.

(2) Each facility shall provide direct supervision of each resident, when smoking, if the resident has been identified as having a mental, psychosocial, or physical impairment that could make unsupervised smoking dangerous to that individual or to others.

(3) Each facility shall ensure that residents who desire to live in a smoke-free environment may do so.

(l) Each facility shall post the names, addresses, and telephone numbers of the Kansas department of health and environment and the office of the long-term care ombudsman with information that these agencies may be contacted to report actual or potential abuse, neglect, and exploitation of residents, or to register complaints concerning the operation of the facility. This in-

formation shall be posted in a public area accessible to all residents and the public.

(m) A copy of the most recent survey report and plan of correction shall be readily accessible in a public area to residents and other individuals wishing to examine survey results. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-276. Community governance.

(a) Each adult day care facility shall facilitate the organization of a council that meets regularly to provide residents with a forum to provide input into community governance.

(b) Each facility shall accommodate the council process by providing space for the meetings, posting notices of the meetings, and assisting residents who wish to attend the meetings.

(c) In order to permit a free exchange of ideas and concerns, meetings shall be conducted without the presence of facility staff, except when allowed by residents.

(d) Each administrator or operator shall respond in writing to each written idea or concern from the council and shall provide the council with a copy of the response within 30 days after the meeting. Copies of the written ideas or concerns and the written responses shall be available to surveyors. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-277. Admission, transfer, and discharge.

(a) Each adult day care facility shall develop and implement written admission, transfer, and discharge policies that protect the rights of residents, pursuant to K.A.R. 28-39-148. In addition, a facility shall not admit or retain any resident who has one or more of the following conditions, unless the negotiated service agreement includes resources, including appropriate direct care staff, to meet the needs of the resident while in the facility:

(1) Incontinence, if the resident cannot or will not participate in management of the problem;

(2) immobility, if the resident requires total assistance in exiting the building;

(3) any ongoing condition requiring a two-person transfer; or

(4) any behavioral symptom that exceeds manageability.

(b) A facility shall not admit or retain any resident whose clinical condition requires the use of physical restraints. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-278. Resident functional capacity screen. (a) On or before admission to an adult day care facility, a licensed nurse, licensed social worker, or the administrator or operator shall conduct a functional capacity screen and record all findings on an instrument specified by the secretary. Each facility may choose to integrate the specified screen in an instrument developed by the facility. Each element and definition, as specified by the department, shall be included in the facility functional capacity screen.

(b) A licensed nurse, licensed social worker, or the administrator or operator shall conduct a functional capacity screen each time the resident experiences a significant change in physical, mental, or psychosocial functioning that would require a change in the negotiated service agreement.

(c) A licensed nurse, licensed social worker, or the administrator or operator shall conduct a functional capacity screen for each resident at least once every 365 days.

(d) A licensed nurse, licensed social worker, or the administrator or operator shall use the functional capacity screen to identify the services to be included in the negotiated service agreement.

(e) The facility shall ensure that the functional capacity screen accurately reflects the functional status of the resident. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-279. Negotiated service agreement. (a) Each adult day care facility shall develop, in collaboration with the resident, the resident's legal representative, family if agreed to by the resident, or case manager, a written negotiated service agreement based on service needs identified by the functional capacity screen or preferences of the resident. The negotiated service agreement shall include the following information:

- (1) A description of the services to be provided;
- (2) identification of the provider of the service or services; and

(3) identification of the party or parties responsible for payment when services are provided by an outside resource.

(b) The negotiated service agreement shall support the dignity, privacy, choice, individuality, and autonomy of the resident.

(c) A licensed nurse employed by the facility, a home health agency, a hospice, or the resident shall participate in the development of the negotiated service agreement when the resident's

functional capacity screen indicates the need for health care services.

(d) At admission, the facility shall develop an initial negotiated service agreement.

(e) The facility shall conduct a review and revision of the negotiated service agreement at least annually, and more frequently if requested by the resident, the resident's legal representative, the family if agreed to by the resident, case manager, or the facility. A licensed nurse shall be involved in revisions related to health care services.

(f) When the resident or the resident's legal representative refuses a service that the administrator or operator, the licensed nurse, the resident's physician, or case manager believes is necessary for the resident's health and safety, the negotiated service agreement shall include the following information:

- (1) The service or services refused;
- (2) identification of potential negative resident outcomes, if the service or services are not provided; and

(3) an indication of the acceptance of the potential risk by the resident or the resident's legal representative.

(g) The negotiated service agreement shall not include situations in which the lack of a service has the potential to affect the health and safety of other residents, facility staff, or the public.

(h) Each individual involved in the development of the negotiated service agreement shall sign the agreement. A copy of the initial agreement and subsequent revisions shall be provided to the resident or the resident's legal representative.

(i) Each facility shall ensure that each resident receives services according to the provisions of the negotiated service agreement.

(j) When the resident's negotiated service agreement includes the use of outside resources, the facility shall perform the following:

(1) Provide the resident, the resident's legal representative, the family if agreed to by the resident, and the case manager with a list of service providers available to provide the needed service;

(2) assist the resident, when requested, in contacting outside resources for services; and

(3) monitor the services provided by the outside resource and act as an advocate for the resident when services do not meet professional standards of practice. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-280. Services. (a) Each adult day care facility shall provide or coordinate the range of services identified and specified in the negotiated service agreement.

(b) The range of services may include the following:

(1) Daily meal service based on the resident's needs;

(2) health care services based on an assessment by a licensed nurse;

(3) medical, dental, and social transportation;

(4) planned group and individual activities meeting the needs and interests of the resident; and

(5) other services necessary to support the health and safety of the resident.

(c) If the facility chooses not to provide or coordinate a service pursuant to K.A.R. 28-39-280 (b), the facility shall provide this information to the resident on or before admission to the facility. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-281. Health care services. (a) Each adult day care facility shall provide or coordinate the provision of health care services to each resident as specified in the negotiated service agreement.

(b) If the functional capacity screen indicates that a resident is in need of health care services, a licensed nurse in collaboration with the resident, the resident's legal representative, the family if agreed to by the resident, or a case manager shall develop a health care service plan to be included in the negotiated service agreement.

(c) Health care services provided by or coordinated by the facility may include one or both of the following:

(1) Personal care provided by the facility's direct care staff, a home health agency, or hospice, or gratuitously by friends or family members; or

(2) supervised nursing care provided by a licensed nurse employed by the facility, a home health agency, a hospice, or the resident.

(d) The negotiated service agreement shall contain a description of the health care services to be provided and the name of the licensed nurse responsible for the implementation and supervision of the plan.

(e) Nursing procedures not included in the nurse aide or medication aide curriculums may be delegated by a licensed nurse to unlicensed direct

care staff under the Kansas nurse practice act, K.S.A. 65-1124 (m), and amendments thereto.

(f) Each facility shall be responsible for assuring that a licensed nurse is available on-site or by telephone to provide immediate direction to medication aides and nurse aides for residents who have unscheduled needs. The licensed nurse may be employed by the facility or by a home health agency or a hospice.

(g) A licensed nurse may provide wellness and health monitoring specified in the resident's negotiated service agreement. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-282. Medication management in adult day care facilities. (a) Self-administration of medications.

(1) Each resident may manage and self-administer that individual's own medications if an assessment by a physician or licensed nurse has determined that the resident can perform this function safely and accurately.

(2) The assessment shall include an evaluation of the resident's physical, cognitive, and functional ability to manage that individual's own medications.

(3) Documentation of the assessment shall appear in the resident's clinical record.

(4) Each resident who self-administers medications may select medications to be administered by a licensed nurse employed by the facility, a home health agency, or hospice, or by a medication aide employed by the facility. The negotiated service agreement shall reflect this service and identify the licensed nurse responsible for management of the selected medications.

(5) Medication reminding may be performed by staff if the medications are selected by the resident. Medication reminding shall be limited to the following:

(A) An inquiry as to whether the medication was taken; and

(B) verbal prompting to take medications.

(b) Self-administration of medications with assistance.

(1) Each resident may self-administer medications with the use of prefilled medication reminder boxes or prefilled syringes, if an assessment performed by a licensed nurse has determined that the resident can safely and accurately administer the preselected medications using medication reminder boxes or prefilled sy-

ringes without further staff assistance. The licensed nurse may be employed by the facility, a home health agency, a hospice, or the resident.

(A) The assessment shall include an evaluation of the resident's physical, cognitive, and functional ability to safely and accurately administer their medications using medication reminder boxes or prefilled syringes.

(B) An assessment shall be performed either when the resident is admitted or before the resident begins to self-administer medications with assistance. An assessment shall also be performed following a significant change in condition and at least annually. Each assessment shall be maintained in the resident's clinical record.

(C) The licensed nurse or pharmacist who pre-fills the resident's medication boxes or syringes shall ensure that all drugs are selected and prepared in accordance with a physician's written order.

(D) The licensed nurse or pharmacist shall ensure that both of the following conditions are met:

(i) Medication reminder boxes are labeled with the resident's name and the date on which the box was prefilled.

(ii) A label is placed on the medication box, or a medication administration record is provided to the resident, either of which includes the name and dosage of each drug and the time the drug is to be self-administered by the resident.

(2) Each resident who self-administers with assistance may request that selected medications be managed by a licensed nurse employed by the facility, a home health agency, or a hospice, or by a medication aide employed by the facility if the resident believes the resident is unable to perform this function safely.

(3) A licensed nurse employed by the facility, a home health agency, or the resident shall develop a health services plan that provides directions to unlicensed staff related to the resident's drug regimen.

(4) Medication reminding by staff shall be allowed, subject to the following conditions:

(A) The medications are preselected for the resident by a licensed nurse, family member, or pharmacist.

(B) The medication reminding is limited to the following:

(i) Making inquiries as to whether or not medication was taken;

(ii) handing the appropriately labeled prefilled

medication reminder box or syringe to the resident; and

(iii) opening the appropriately labeled prefilled medication reminder box if the resident is unable to open the container.

(C) Medication reminding does not include taking the medication out of the medication reminder box.

(c) Facility management of medications. If the facility is responsible for the management of a resident's medications, the facility shall ensure that all drugs are administered to each resident in accordance with a physician's written order. Each facility shall ensure that all of the following conditions are met:

(1) All drugs except parenteral drugs are administered by physicians, licensed nurses, or medication aides.

(2) Parenteral drugs are administered only by a physician or licensed nurse.

(3) The drugs are prepared and administered by the same person.

(4) The resident is identified before administration of the drug.

(5) The dose administered is recorded on the resident's individual drug record, by the person who administered the drug.

(d) Medications may be preselected or administered by family members or friends gratuitously pursuant to K.S.A. 65-1124 (a), and amendments thereto.

(e) Ordering and labeling.

(1) All drugs and biologicals administered by the facility or preselected for residents by a licensed nurse shall be administered pursuant to a written order issued by a physician.

(2) The dispensing pharmacist shall label each prescription container pursuant to K.A.R. 68-7-14.

(3) Over-the-counter drugs. Each facility shall ensure that each over-the-counter drug delivered to the facility is in the original, unbroken manufacturer's package. A pharmacist or licensed nurse shall place the full name of the resident on the package. If over-the-counter drugs are removed from the original manufacturer's package, other than for administration, the pharmacist shall label the drug, as required for prescription drugs.

(4) Physicians, advanced registered nurse practitioners, and physician assistants shall give verbal orders for drugs only to a licensed nurse, pharmacist, or another physician. The licensed nurse, physician, or pharmacist shall immediately record

the verbal order in the resident's clinical record. The physician shall countersign all verbal orders within seven working days after the receipt of the verbal order.

(f) Storage.

(1) All drugs, whether self-administered by a resident, self-administered with assistance by a resident, or managed by the facility, shall be stored safely, securely, and properly, following manufacturer's recommendations or those of the supplier and in accordance with federal and state laws and regulations.

(2) Each resident who self-administers medications shall store the medications in a manner that prevents access by other residents and the public.

(3) Each resident may request that the facility store a medication or medications if the resident is unable to provide proper storage as recommended by the manufacturer or pharmacy provider.

(4) All medications managed by the facility or stored by the facility at the request of a resident shall be stored in a locked cabinet or medication cart, and only those persons authorized by the facility shall have access to the keys to the cabinet or cart.

(5) Each facility shall ensure that there are records maintained of receipt and disposition of all controlled substances managed by the facility so that there can be an accurate reconciliation.

(g) Records. Each facility shall ensure that the following items are documented in the clinical records of all residents who self-administer medications with assistance or the facility manages medications for the resident:

- (1) Physician orders for medications;
- (2) the pharmacy provider of the resident's choice;
- (3) any known drug allergies;
- (4) the date and time medications were selected for residents who required assistance with self-administration of medications; and
- (5) the date and time medications were administered to residents.

(h) Drug regimen review.

(1) Each resident in the facility shall be offered the opportunity for a drug review conducted by a pharmacist or a licensed nurse on a monthly basis. If the resident refuses this service, the facility shall offer the service each time the resident experiences a significant change in condition or at least

annually. Each facility shall document the resident's decision in the resident's clinical record.

(2) A drug regimen review shall identify any potential or current drug-related problem, including any of the following:

- (A) Lack of clinical indication for use of any drug;
- (B) subtherapeutic dose of any drug;
- (C) failure of the resident to receive an ordered drug;
- (D) drugs administered in excessive dosage, including duplicate therapy;
- (E) adverse drug reactions;
- (F) drug interactions; and
- (G) lack of adequate monitoring.

(3) The facility shall report each variance identified in the drug regimen review to the resident's physician.

(4) The facility shall maintain documentation in each resident's record of any drug regimen review performed.

(i) At least annually, a pharmacist or a licensed nurse shall conduct an educational program on medication usage and health-related topics for residents, legal representatives of residents, and families of residents. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-283. Staff development. (a) Each adult day care facility shall provide orientation to new employees and regular in-service education for all employees to ensure that the services provided assist residents to attain and maintain their individuality, autonomy, dignity, independence, and ability to make choices.

(b) Subjects in in-service education shall include the following:

- (1) Principles of adult day care;
- (2) fire prevention and safety;
- (3) disaster procedures;
- (4) accident prevention;
- (5) resident rights;
- (6) infection control; and
- (7) prevention of abuse, neglect, and exploitation of residents.

(c) Each facility that admits residents with dementia shall provide in-service education on the treatment of behavioral symptoms. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-284. Staff qualifications. (a) Each adult day care facility shall provide sufficient numbers of qualified personnel to ensure that resi-

dents receive the services and care specified in the negotiated service agreement.

(b) Employee records shall contain evidence of licensure, registration, or certification of full-time, part-time, and consultant staff.

(c) The facility shall perform health screening on each employee no later than seven days after employment. The facility shall maintain a copy of this health screening in the employee's file.

(d) The facility shall perform tuberculosis skin testing of employees in accordance with the centers for disease control recommendations in "prevention and control of tuberculosis in facilities providing long-term care to the elderly," as published in morbidity and mortality weekly report, July 13, 1990. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-285. Resident records. (a) Each adult day care facility shall maintain a resident record for each resident, in accordance with accepted professional standards and practices.

(1) Each facility shall maintain each resident's records for at least five years after the discharge or death of the resident.

(2) In the case of a minor, the facility shall maintain the resident's records for five years after the resident reaches 18 years of age.

(b) Each facility shall keep confidential all information in the resident's records, regardless of form or storage method of records, except when release is required by any of the following:

- (1) Transfer to another health care facility;
- (2) law;
- (3) third party payment contract;
- (4) the resident or the resident's legal representative; or
- (5) in the case of a deceased resident, the immediate heirs of the resident.

(c) Each facility shall safeguard resident record information against loss, destruction, fire, theft, or unauthorized use.

(d) The resident's record shall contain at least the following information:

- (1) The resident's name;
- (2) the dates of admission and discharge;
- (3) the admission agreement and any amendments;
- (4) the functional capacity screens;
- (5) the negotiated service agreement and any amendments;
- (6) the name, address, and telephone number

of the physician and dentist to be notified in an emergency;

(7) the name, address, and telephone number of the legal representative or individual of resident's choice to be notified in the event of a significant change in condition;

(8) the physician's orders, if the facility is managing the resident's medications and treatments or if the resident is self-administering medications with assistance;

(9) the records of drugs, biologicals, and treatments administered; and

(10) the documentation of all incidents, symptoms, and other indications of illness or injury, including date, time of occurrence, the action taken, and the results of action. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-286. Disaster and emergency preparedness. (a) Each adult day care facility shall provide sufficient staff to promptly take residents who require assistance to the outside or to a point of safety in an emergency.

(b) Each facility shall have a detailed written emergency management plan to meet potential emergencies and disasters, including the following:

- (1) Fire;
- (2) flood;
- (3) severe weather;
- (4) tornado;
- (5) explosion;
- (6) natural gas leak;
- (7) lack of electrical or water service;
- (8) missing residents; and
- (9) any other potential emergency situation.

(c) Each facility shall have written agreements that provide the following needed services:

- (1) Fresh water;
- (2) evacuation site; and
- (3) transportation of residents to an evacuation site.

(d) To ensure disaster and emergency preparedness, each facility shall perform the following:

(1) Orient new employees at the time of employment to the facility's emergency management plan;

(2) periodically review the plan with employees; and

(3) at least every three months, carry out a disaster drill with staff and residents that includes evacuation of the building or evacuation to a safe area.

(e) The emergency management plan shall be available to staff, residents, and visitors. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-287. Dietary services. (a) Each adult day care facility shall provide or coordinate the provision of dietary services to residents as specified in the resident's negotiated service agreement. Each facility that has a contract with an outside food management company shall be responsible for the contracting company's compliance with these regulations.

(a) Staffing.

(1) The overall supervisory responsibility for dietetic services shall be the assigned responsibility of one employee.

(2) If the resident's negotiated service agreement includes the provision of a therapeutic diet, the diet served shall be based on instructions from a physician or licensed dietitian.

(3) Menus shall be planned in advance and shall be based on "nutrition and your health: dietary guidelines for Americans," 4th edition, 1995, home and garden bulletin #232, published by the U.S. department of agriculture and the department of health and human services, which is hereby adopted by reference.

(b) Foods shall be prepared by safe methods that conserve the nutritive value, flavor, and appearance and shall be attractively served at the proper temperature.

(c) Menu plans shall be available to residents on at least a weekly basis.

(d) A method shall be established to allow input by residents on the selection of food to be served and the scheduling of meal service. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-288. Infection control. (a) Each adult day care facility shall provide a safe, sanitary, and comfortable environment for residents.

(b) Each facility shall develop and implement policies and procedures to prevent and control the spread of infections. These policies and procedures shall include the following:

(1) Taking universal precautions to prevent the spread of blood-borne pathogens;

(2) hand washing;

(3) providing food service sanitation;

(4) prohibiting employees with a communicable disease or infected skin lesions from coming

in contact with any resident or resident's food, if direct contact transmits the disease;

(5) providing orientation of new employees and periodic employee in-service education on the control of infections in a health care setting; and

(6) tuberculosis skin testing of each new resident and employee, as soon as attendance or employment begins, unless the employee can provide documentation of a previous significant reaction. Each facility shall follow the centers for disease control recommendations for "prevention and control of tuberculosis in facilities providing long-term care to the elderly," as published in morbidity and mortality weekly report, July 13, 1990, and hereby adopted by reference. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-289. Construction; general requirements. (a) Each adult day care facility shall be designed, constructed, equipped, and maintained to protect the health and safety of residents, personnel, and the public.

(b) All new construction, renovation, and remodeling or changes in building use in existing buildings shall comply with building and fire codes, ordinances, and regulations enforced by city, county, and state jurisdictions, including the state fire marshal.

(c) New construction, modifications, and equipment shall conform to the following codes and standards:

(1) Title III of the Americans with disabilities act, 42 U.S.C. 12181, as implemented by 28 C.F.R. part 36, as published on July 26, 1991 and hereby adopted by reference; and

(2) "food service sanitation manual," health, education, and welfare (HEW) 1976 publication no. FDA 78-2081, which is hereby adopted by reference.

(d) Site location requirements. Each facility shall meet the following requirements:

(1) Be served by all-weather roads and streets;

(2) be free from noxious or hazardous smoke or fumes;

(3) be located a minimum of 4,000 feet from concentrated livestock operations, including feedlots and shipping and holding pens;

(4) be free of flooding for a 100-year period; and

(5) be sufficient in area and configuration to accommodate the building or buildings, drives,

parking, sidewalks, and outdoor recreation area or areas.

(e) General building exterior.

(1) Each exterior pathway or access to the facility's common use areas and entrance and exit ways shall meet the following requirements:

(A) Be made of hard, smooth material;

(B) be free of barriers; and

(C) be maintained in good repair.

(2) There shall be a means of monitoring each exterior entry and exit used by residents for security purposes.

(3) Each facility shall provide outdoor recreation areas for residents.

(f) Common use areas.

(1) Each facility shall have sufficient common-use space to accommodate the full range of program activities and services.

(A) Space shall be provided for activities at a rate of 60 square feet per resident capacity of the facility. Reception areas, storage areas, offices, rest rooms, passageways, treatment rooms, service areas, or specialized space used only for therapies shall not be included when calculating activity space square footage.

(B) A private area equipped with a bed shall be available for residents who become ill, may require a rest period, or need a quiet area for treatment of behavioral symptoms.

(C) Each facility shall have social, recreational, and dining areas that provide for the activity needs of residents. The dining area shall have seating capacity for all residents in attendance at any one time.

(D) Rooms or areas used for resident services and activities shall have furniture appropriate to the needs of the residents attending the adult day care program.

(2) Each facility located in a building housing other services shall have a separate, identifiable space for adult day care activity areas provided during hours of operation. Space, including the kitchen and therapy rooms, may be shared.

(3) Rest room or rooms.

(A) Each rest room shall be accessible to residents with disabilities and shall contain a toilet or toilets, lavatory, waste container, and a nonreusable method of hand drying.

(B) The number of toilets and lavatories accessible to residents shall include the following:

(i) One to five residents: one toilet and lavatory;

(ii) six to 10 residents: two toilets and two lavatories; and

(iii) 11 or more residents: one toilet and lavatory for each 10 residents over 10.

(4) Bathing room.

(A) There may be a bathing room with a tub, shower, or mechanical tub.

(B) A toilet and lavatory shall be accessible without entering the general corridor.

(5) Public telephone. There shall be a public telephone locally accessible to individuals with disabilities in a private area that allows a resident or another individual to conduct a private conversation. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-290. Support services areas.

(a) Each adult day care facility shall provide the following:

(1) A work space with a desk and telephone that can be used by staff to chart and maintain resident records; and

(2) a locked medication storage area and a refrigerator for the storage of medications in the same area. If controlled drugs are stored at the facility, a separate double-locked compartment shall be provided. A drug cart with a double-locking system shall be acceptable. Each facility shall provide storage for necessary medical supplies.

(b) Each facility shall provide a locked closet or cabinet for the storage of cleaning chemicals and supplies used for facility housekeeping and sanitation.

(c) Laundry facility.

(1) If the facility processes laundry, the facility shall provide washing and drying machines. Each facility shall arrange the work area to provide a one-way flow of laundry from a soiled area to a clean area.

(2) Each facility shall store soiled laundry in a manner that prevents odors and the spread of disease.

(3) Each facility shall provide a lavatory with a nonreusable method of hand drying within or accessible to the laundry area.

(d) Dietary areas. A dietary area shall provide for sanitary meal preparation or service to residents.

(1) Each facility shall wash, rinse, and sanitize all tableware, kitchenware, and food preparation equipment in any of the following:

(A) A dishwashing machine;

(B) a three-compartment sink;

- (C) three separate containers; or
- (D) any combination of the above.

(2) Each facility shall provide the disposal of waste by incineration, mechanical destruction, removal, or a combination of these. Air-tight, closed containers shall be used to store waste.

(3) Ceilings in the dietary area shall be cleanable by dustless methods, including vacuum cleaning or wet cleaning.

(4) Dietary areas shall not have exposed or unprotected sewer lines. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-291. Details and finishes. (a) Details for each adult day care facility shall include the following:

(1) Rooms containing bathtubs, showers, or toilets available for use by residents shall be equipped with doors and hardware capable of being opened from the outside and shall permit access from outside the room in an emergency.

(2) Windows and outer doors, when left in an open position, shall be provided with insect screens. Windows shall be designed to prevent accidental falls when open or shall be equipped with security screens.

(3) Grab bars shall be provided at all toilets, showers, and tubs accessible to residents.

(b) Finishes.

(1) Wall finishes shall be washable and, in the immediate area of plumbing fixtures, shall be smooth and moisture resistant. Finish trim, and wall and floor constructions in dietary and food preparation areas shall be free from spaces that can harbor rodents and insects.

(2) Floor, wall, and ceiling penetrations by pipes, ducts, and conduits shall be tightly sealed to minimize the entry of rodents and insects. Joints of structural elements shall be similarly sealed.

(3) Shower bases and tubs shall be provided with nonslip surfaces.

(c) Mechanical requirements.

(1) Heating, air conditioning, and ventilating systems.

(A) The system shall be designed to maintain a year-round indoor temperature range of 70° F to 85° F.

(2) Plumbing and piping systems.

(A) Backflow prevention devices or vacuum breakers shall be installed on fixtures to which hoses or tubing can be attached.

(B) Water distribution systems shall be ar-

anged to provide hot water at hot water outlets at all times. The temperature of hot water shall range between 98° F and 120° F at showers, tubs, and lavatories accessible to residents.

(3) Electrical requirements.

(A) All spaces occupied by persons or machinery and equipment within buildings, approaches to buildings, and parking lots shall have adequate lighting.

(B) Each corridor and stairway shall remain lighted during the hours of operation.

(C) Each light in resident use areas shall be equipped with shades, globes, grids, or glass panels. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-292 to 28-39-299. Reserved.

28-39-300 to 28-39-312. (Authorized by and implementing K.S.A. 39-932; effective, T-88-57, Dec. 16, 1987; amended May 1, 1988; revoked Oct. 8, 1999.)

28-39-313 to 28-39-399. Reserved.

28-39-400. Administration. The boarding care home shall be operated in a manner to ensure the delivery of all required administrative services. (Authorized by and implementing K.S.A. 39-932; effective, T-88-57, Dec. 16, 1987; amended May 1, 1988.)

28-39-401. Administration; management standard. (a) The licensee shall have full authority and responsibility for the operation of the facility and for compliance with licensing requirements.

(b) The licensee shall operate the facility to assure the safety, psychosocial, and self-esteem needs of the residents; and to protect personal and property rights of residents.

(c) Admission.

(1) The facility shall admit and retain only persons in need of supervision. The facility shall accommodate a maximum of 10 residents.

(2) Before admission, the prospective resident or the legal guardian of the resident shall be informed, in writing, of the rates and charges and the resident's obligations regarding payment, including the refund policy of the facility.

(3) At the time of admission, the licensee shall execute a written agreement with the resident or the legal guardian of the resident which describes in detail the goods and services which the resident

shall receive and which sets forth the obligations which the resident has toward the facility.

(4) The facility shall not admit persons with an infection or disease in communicable stage; women who are pregnant or within three months following pregnancy; or persons in need of active treatment for alcoholism, mental condition, or drug addiction.

(d) Power of attorney and guardianship. A power of attorney from or legal guardianship for a resident shall not be accepted by anyone employed by or having a financial interest in the facility unless the person is related by marriage or blood within the second degree to the resident.

(e) Reports. The facility shall submit to the licensing agency, not later than 10 days following the period covered, a quarterly report of residents and employees. The report shall be submitted on forms provided by the licensing agency. The facility shall submit any other reports as required by the licensing agency. (Authorized by and implementing K.S.A. 39-932; effective, T-88-57, Dec. 16, 1987; amended May 1, 1988.)

28-39-402. Health services. The boarding care home shall provide qualified personnel to meet the needs of the residents, including those services prescribed in K.A.R. 28-39-403 to K.A.R. 28-39-405. (Authorized by and implementing K.S.A. 39-932; effective, T-88-57, Dec. 16, 1987; amended May 1, 1988.)

28-39-403. Health services; medical and dental services standard. (a) Residents shall provide for their own medical services through personal physicians and for dental services by their personal dentists.

(b) Residents may self-administer medications or facility personnel may supervise residents who self-administer medication by:

- (1) Reminding residents to take medication,
- (2) opening bottle caps for residents,
- (3) reading the medication label to residents,
- (4) observing residents while they take medications,
- (5) checking the self-administered dosage against the label of the container,
- (6) reassuring residents that they have obtained and are taking the dosage as prescribed,
- (7) assisting a resident with the taking of medications when the resident requires assistance,
- (8) keeping daily records of when residents receive supervision, and
- (9) immediately reporting noticeable changes

in the condition of a resident to the resident's physician and nearest relative or legal guardian.

(c) Restraints shall not be used. (Authorized by and implementing K.S.A. 39-932; effective, T-88-57, Dec. 16, 1987; amended May 1, 1988.)

28-39-404. Health services; records standard. (a) Resident records shall be maintained with pertinent information regarding care of the resident.

(b) Resident records shall include name, date of admission, birth date, nearest relative or legal guardian, personal physician, and whom to notify in case of illness or accident. (Authorized by and implementing K.S.A. 39-932; effective, T-88-57, Dec. 16, 1987; amended May 1, 1988.)

28-39-405. Health services; dietetic services standard. The facility shall provide meal services that include:

(a) Menus planned and followed to meet the nutritional needs of residents; and

(b) Foods prepared by methods that conserve the nutritive value, flavor, and appearance and attractively served at the proper temperature. (Authorized by and implementing K.S.A. 39-932; effective, T-88-57, Dec. 16, 1987; amended May 1, 1988.)

28-39-406. Environmental sanitation and safety. The boarding care home shall provide staff and services to ensure a clean, safe, and comfortable environment for residents and shall meet the environmental sanitation and safety requirements prescribed in K.A.R. 28-39-407 to K.A.R. 28-39-409, inclusive. (Authorized by and implementing K.S.A. 39-932; effective, T-88-57, Dec. 16, 1987; amended May 1, 1988.)

28-39-407. Environmental sanitation and safety; housekeeping standard. (a) Housekeeping services shall be provided to maintain a safe, sanitary, and comfortable environment for residents and to help prevent the development or transmission of infections.

(b) The facility shall be kept free of insects, rodents, and vermin.

(c) The grounds shall be free from accumulation of rubbish and other health and safety hazards.

(d) The interior and exterior of the building shall be maintained in a clean, safe, and orderly manner. (Authorized by and implementing K.S.A. 39-932; effective, T-88-57, Dec. 16, 1987; amended May 1, 1988.)

28-39-408. Environmental sanitation and safety; maintenance standard. (a) All buildings shall be maintained in good repair and free from hazards.

(b) All electrical and mechanical equipment shall be maintained in good repair and in safe operating condition.

(c) Resident care equipment shall be maintained in a safe and sanitary condition. (Authorized by and implementing K.S.A. 39-932; effective, T-88-57, Dec. 16, 1987; amended May 1, 1988.)

28-39-409. Environmental sanitation and safety; disaster preparedness standard.

(a) The facility shall have a written plan with procedures to be followed if a disaster, such as fire, tornado, explosion, or flood, occurs inside or outside the facility. The facility shall ensure that the staff are prepared for a disaster.

(b) The disaster plan shall be available and posted for residents and staff.

(c) The plan shall include evacuation routes and procedures to be followed in case of fire, tornado, explosion, flood, or other disaster. The plan shall include procedures for the transfer of residents, casualties, medical records, medications, and notification of next of kin and other persons. (Authorized by and implementing K.S.A. 39-932; effective, T-88-57, Dec. 16, 1987; amended May 1, 1988.)

28-39-410. (Authorized by and implementing K.S.A. 39-932; effective, T-88-57, Dec. 16, 1987; amended May 1, 1988; revoked March 23, 2001.)

28-39-411. Physical environment and complete construction. (a) General provisions. The following provisions describe the physical environment and complete construction requirements for boarding care homes. The facility shall provide for a safe, sanitary environment and for the safety and comfort of the residents.

(b) Each boarding care home shall consist of at least the following units, areas, and rooms which shall all be within a single building and under one roof;

(1) All beds shall be located in rooms designed for not more than five beds. Each resident bedroom shall meet the following requirements;

(A) Minimum room areas, excluding toilet rooms, closets, lockers, wardrobes, other built-in fixed items, alcoves, or vestibules, shall be 60

square feet per bed. Visual privacy shall be provided for each bed in a multibed room;

(B) Each toilet room shall contain at least a toilet and a lavatory but not more than two toilets. The lavatory may be omitted if the toilet adjoins bedrooms containing a lavatory. There shall be not less than one toilet for each five residents; and

(C) Each resident room shall be provided with space for resident clothing and personal items.

(2) Services areas or elements required below shall be located in all boarding care homes. Each facility shall contain:

(A) Space for storage of clean linen;

(B) Space for holding of soiled laundry;

(C) Space for storage of equipment for the facility's use.

(D) Bathing units at the rate of one bathtub or shower per five residents. Bathing units shall be located in rooms or areas with access to a toilet and lavatory without entering the general corridor. Bathing units shall be located within enclosures which provide for privacy;

(E) Living and dining areas;

(F) Food preparation areas in the size required to implement meal service. The area shall include provision for disposal of waste by incineration, mechanical destruction, compaction, removal, or by a combination of these techniques. Stored waste shall be in water-tight, closed containers; and

(G) If tools, supplies, or equipment used for yard or exterior maintenance are stored at the facility, a room which opens to the outside or which is located in a detached building for storage of such equipment.

(c) Details and finishes.

(1) Windows and outer doors left in an open position shall be provided with insect screens.

(2) Shower bases and tubs shall have a nonslip surface.

(3) Wall finishes shall be washable and in the immediate area of plumbing fixtures shall be smooth and moisture resistant. Finish, trim, wall, and floor constructions in food preparation areas shall be free from spaces that can harbor rodents and insects.

(4) Ceilings in the food preparation areas shall be cleanable by dustless methods, such as vacuum cleaning or wet cleaning. These areas shall not have exposed or unprotected sewer lines.

(d) Mechanical, plumbing, and electrical requirements.

(1) Heating, air conditioning, and ventilation

systems. The system shall maintain a year-round indoor temperature range between 70°F. to 85°F.

(2) The temperature of hot water shall range between 98°F. and 115°F. at shower, bathing, and handwashing facilities throughout the system.

(3) All spaces occupied by persons or machinery and equipment within the buildings, approaches to buildings, and parking lots shall have adequate lighting. (Authorized by and implementing K.S.A. 39-932; effective, T-88-57, Dec. 16, 1987; amended May 1, 1988.)

28-39-425. Administration. (a) The home-plus facility shall be operated in a manner that ensures that residents receive the care and services described in the negotiated service agreement.

(b) The licensee shall appoint an administrator or operator who meets the following criteria:

- (1) Is at least 21 years of age;
- (2) possesses a high school diploma or the equivalent;
- (3) holds a Kansas license as an adult care home administrator or has successfully completed an operator training program designated by the secretary; and
- (4) has authority and responsibility for the operation of the facility and compliance with licensing requirements.

Each facility may request approval from the department for an administrator or operator to supervise more than one home-plus facility. Each request shall be submitted, in writing, by the governing bodies of the facilities on a form approved by the department.

(1) Each administrator or operator may supervise more than one home-plus facility, if the following conditions are met:

(A) Each facility is located within a proximate geographical location.

(B) The combined resident capacity does not exceed 20 residents.

(c) The administrator or operator assures that the lack of full-time, on-site supervision of the facility does not adversely affect the health and welfare of residents.

(2) Before a change in administrator or operator occurs, the facilities shall submit the credentials of the proposed new administrator or operator for approval by the department.

(d) The licensee shall ensure that the operation of the facility reflects the following concepts:

(1) The recognition of each resident's rights, responsibilities, needs, and preferences;

(2) the freedom of each resident or resident's legal representative to select or refuse a service and to accept responsibility for the consequences;

(3) the development and maintenance of social ties for the resident by providing opportunities for meaningful interaction and involvement within the facility and the community;

(4) furnishing and decorating each resident's personal space;

(5) the recognition of personal space as private and the sharing of a bedroom only when agreed to by each resident;

(6) the maintenance of each resident's lifestyle, if there are no adverse effects on the rights and safety of other residents; and

(7) the resolution of complaints through a specific process that includes a written response to written complaints within 30 days.

(e) Staff treatment of residents. Each facility shall develop and implement written policies and procedures that prohibit abuse, neglect, and exploitation of residents. Each facility shall meet the following requirements:

(1) Not use verbal, mental, sexual, or physical abuse, including corporal punishment and involuntary seclusion;

(2) not employ any individual who has been identified on the state nurse aid registry as having abused, neglected, or exploited residents in an adult care home;

(3) ensure that all allegations of abuse, neglect, or exploitation are investigated and reported immediately to the administrator or operator of the facility and to the department;

(4) provide evidence that all alleged violations are thoroughly investigated and take measures to prevent further potential abuse, neglect, and exploitation while the investigation is in progress;

(5) report the results of all facility investigations of reported abuse, neglect, and exploitation;

(6) maintain a written record of all investigations of reported abuse, neglect, and exploitation; and

(7) take appropriate corrective action if the alleged violation is verified.

(f) Power of attorney, guardianship, and conservatorship. A power of attorney, durable power of attorney for health care decisions, guardianship, or conservatorship shall not be accepted by any person employed by or having a financial interest in the facility, unless the person is related

to the resident by marriage or blood within the second degree.

(g) Reports. Each administrator or operator shall submit to the department, within 10 days following the period covered, a semiannual report of residents and employees. The administrator or operator shall submit the report on forms provided by the department and shall submit other reports as required by the department.

(h) Telephone. The facility shall maintain at least one non-coin-operated telephone accessible to residents and employees for use in emergencies. The facility shall post the names and telephone numbers of persons or places commonly required in emergencies adjacent to this telephone.

(i) Smoking. If smoking is allowed in the facility, the following requirements shall be met:

(1) A public use area or areas shall be provided for residents, visitors, and employees who wish to smoke. The area or areas shall be provided with ashtrays and wastebaskets that are fire resistant.

(2) Each facility shall provide direct supervision of each resident, when smoking, who has been identified as having a mental, psychosocial, or physical impairment that could make unsupervised smoking dangerous to that individual or to others.

(3) Each facility shall ensure that residents who desire to live in a smoke-free environment may do so.

(j) Each facility shall post the names, addresses, and telephone numbers of the Kansas department of health and environment and the office of the long-term care ombudsman with information that these agencies may be contacted to report actual or potential abuse, neglect, or exploitation of residents, or to register complaints concerning the operation of the facility. This information shall be posted in a public area accessible to all residents and the public.

(k) A copy of the most recent survey report and plan of correction shall be readily accessible in a public area to residents and other individuals wishing to examine survey results. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-426. Admission, transfer, and discharge. (a) Each home-plus facility shall develop and implement written admission, transfer, and discharge policies that protect the rights of residents, pursuant to K.A.R. 28-39-148.

(b) When the operator of the facility is not a licensed nurse, the facility shall not admit or retain residents who have one or more of the following conditions:

(1) Incontinence, if the resident cannot or will not participate in management of the problem;

(2) immobility, if the resident requires total assistance in exiting the building;

(3) any ongoing condition requiring a two-person transfer;

(4) any ongoing, skilled nursing intervention needed 24 hours a day for an extended period of time; or

(5) any behavioral symptom that exceeds manageability.

(c) Each facility may admit residents for adult day care services, if there are at least 60 square feet of living, dining, and activity space available in the facility for each resident receiving home-plus services and each resident receiving adult day care services.

(d) Each resident shall be liable only for rental fees accrued to the end of a 30-day written notice provided by the resident or resident's legal representative or by the facility pursuant to K.A.R. 28-39-148(d). (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-427. Resident functional capacity screen. (a) On or before admission to a home-plus facility, a licensed nurse, licensed social worker, or the administrator or operator shall conduct a functional capacity screen on each resident, as specified by the department. A facility may choose to integrate the specified screen and record all findings on an instrument developed by the facility. Each element and definition specified by the department shall be included in the facility functional capacity screen.

(b) The facility shall conduct a functional capacity screen following a significant change in any resident's physical, mental or psychosocial functions that would require a change in the negotiated service agreement.

(c) The facility shall conduct a functional capacity screen at least once every 365 days.

(d) The facility shall use a functional capacity screen as a basis for determining the services to be included in the negotiated service agreement.

(e) The functional capacity screen shall accurately reflect the resident's status. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-428. Negotiated service agreement. (a) Each home-plus facility shall develop, in collaboration with the resident, the resident's legal representative, family if agreed to by the resident, or case manager, a written negotiated service agreement based on the service needs identified by the functional capacity screen or preferences of the resident. The negotiated service agreement shall include the following information:

- (1) A description of the services to be provided;
- (2) identification of the provider of the service or services; and

- (3) identification of the party or parties responsible for payment when services are provided by an outside resource.

(b) The negotiated service agreement shall support the dignity, privacy, choice, individuality, and autonomy of the resident.

(c) A licensed nurse employed by the facility, a home health agency, or the resident shall participate in the development of the negotiated service agreement when the resident's functional capacity screen indicates the need for health care services.

(d) Each facility shall develop an initial negotiated service agreement at admission.

(e) Each facility shall review the negotiated service agreement at least annually. Each facility shall revise more frequently if requested by the resident, the resident's legal representative, the family if agreed to by the resident, the case manager, or the facility. A licensed nurse shall be involved in revisions related to health care services.

(f) When the resident or the resident's legal representative refuses a service that the administrator or operator, the licensed nurse, the resident's physician, or the case manager believes is necessary for the resident's health and safety, the negotiated service agreement shall include the following information:

- (1) The service or services refused;
- (2) identification of potential negative resident outcomes, if the service or services are not provided; and

- (3) an indication of the acceptance of the potential risk by the resident or the resident's legal representative.

(g) The negotiated service agreement shall not include situations in which the lack of a service has the potential to affect the health and safety of other residents, facility staff, or the public.

(h) Each individual involved in the development of the negotiated service agreement shall

sign the agreement. The facility shall provide a copy of the initial agreement and subsequent revisions to the resident or the resident's legal representative.

(i) The facility shall ensure that each resident receives services according to the provisions of the negotiated service agreement.

(j) When the resident's negotiated service agreement includes the use of outside resources, the facility shall perform the following:

- (1) Provide the resident, the resident's legal representative, the family if agreed to by the resident, and the case manager with a list of service providers available to provide the needed service;

- (2) assist the resident, when requested, in contacting outside resources for services; and

- (3) monitor the services provided by the outside resource and act as an advocate for the resident when services do not meet professional standards of practice. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-429. Services. (a) Each home-plus facility shall provide or coordinate the range of services identified and specified in the negotiated service agreement.

(b) The range of services may include the following:

- (1) Daily meal service, based on the resident's needs;

- (2) health care services based on an assessment by a licensed nurse;

- (3) housekeeping services essential for the health, comfort, and safety of residents;

- (4) medical, dental, and social transportation;

- (5) group and individual activities based on the needs and interests of the resident; and

- (6) other services necessary to support the health and safety of the resident.

(c) Adult day care. Each home-plus facility may provide adult day care services to any individual whose physical, mental, and psychosocial needs can be met by intermittent nursing, psychosocial, rehabilitative, or restorative services. Each home-plus facility shall meet the following requirements:

- (1) Maintain a record of services provided to clients in the adult day care program; and

- (2) provide adult day care services that do not adversely affect the care and services offered to other residents of the facility.

- (d) Routine maintenance, including control of

pests and rodents, and repairs of each resident's bedroom and common areas inside and outside the facility shall be provided as specified in the admission agreement.

(e) If the facility chooses not to provide or coordinate any service, pursuant to K.A.R. 28-39-429(b), the facility shall provide this information to the resident on or before admission to the facility. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-430. Health care services. (a) Each home-plus facility shall provide or coordinate the provision of health care services to each resident as specified in the negotiated service agreement.

(b) If the functional capacity screen indicates that a resident is in need of health care services, a licensed nurse, in collaboration with the resident, the resident's legal representative, the family if agreed to by the resident, or a case manager, shall develop a health care service plan to be included in the negotiated service agreement.

(c) Health care services provided by or coordinated by the facility may include at least one of the following:

(1) Personal care provided by the facility's direct care staff, a home health agency, or gratuitously by friends or family members; or

(2) supervised nursing care provided by a licensed nurse employed by the facility, a home health agency, a hospice, or the resident.

(d) The negotiated service agreement shall contain a description of the health care services to be provided and the name of the licensed nurse responsible for the implementation and supervision of the plan.

(e) Nursing procedures not included in the nurse aide or medication aide curriculums may be delegated by a licensed nurse to unlicensed direct care staff under the Kansas nurse practice act, K.S.A. 65-1124(m), and amendments thereto.

(f) Each facility shall be responsible for assuring that a licensed nurse is available on-site or by telephone to provide immediate direction to medication aides and nurse aides for residents who have unscheduled needs. The licensed nurse may be employed by the facility or by a home health agency or a hospice.

(g) Skilled nursing services.

(1) When the operator of the facility is a licensed nurse, skilled nursing services may be pro-

vided based on the competency and licensure of the nurse.

(2) When the operator of the facility is not a licensed nurse, skilled nursing care may be provided on an intermittent or short-term basis or, if limited in scope, a regular basis.

(3) The licensed nurse providing the skilled nursing service shall document the service and the outcome of the service in each resident's record.

(4) A physician's order for the skilled nursing service shall be included in the resident's record in the facility. A copy of the physician's order from a home health agency or a hospice may be used.

(5) The licensed nurse providing the skilled service shall arrange for availability of a licensed nurse by telephone to meet unscheduled needs related to the skilled nursing service.

(6) A licensed nurse may provide wellness and health monitoring as specified in the resident's negotiated service agreement.

(h) Restraints. The resident shall be free from any physical restraints imposed for the purposes of discipline or convenience, and not required to treat the resident's clinical symptoms.

(1) The use of physical restraints shall include the following:

(A) A licensed nurse on duty 24 hours a day, seven days a week to assess and monitor the need for continued use of the physical restraint;

(B) a written physician's order that includes the type of restraint to be applied, the duration of the application, and the clinical justification for the use of the restraint;

(C) evidence that the resident is released from the restraint, exercised, and provided the opportunity to be toileted at least every two hours;

(D) regular monitoring of each resident in restraints at intervals of no fewer than 30 minutes;

(E) documentation in the resident's clinical record indicating that less restrictive methods to ensure the health and safety of the resident were not effective or appropriate; and

(F) evaluation of the continued necessity for the physical restraint at least every three months, and more frequently, if there is a significant change in the resident's condition.

(2) Equipment used for physical restraints shall be designed to assure the safety and dignity of the resident.

(3) Staff who provide care to residents in physical restraints shall be trained in the appropriate application of the restraint and the care of a resident who is physically restrained.

(4) In the event of an emergency, a physical restraint may be applied following an assessment by a licensed nurse that indicates that the physical restraint is necessary to prevent the resident from harming that individual or other residents and staff members. A physician's approval shall be obtained within 12 hours of the application of any physical restraint. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-431. Dietary services. Each home-plus facility shall provide or coordinate the provision of dietary services to residents as specified in the resident's negotiated service agreement. (a) Staffing.

(1) The overall supervisory responsibility for dietetic services shall be the assigned responsibility of one employee.

(2) If the resident's negotiated service agreement includes the provision of a therapeutic diet, the diet served shall be based on written instructions from a physician or licensed dietitian.

(b) Each facility shall plan menus in advance and shall base the menus on "nutrition and your health: dietary guidelines for Americans," 4th edition, 1995, home and garden bulletin #232, published by the U.S. department of agriculture and the department of health and human services and hereby adopted by reference.

(c) Each facility shall prepare food using safe methods that conserve the nutritive value, flavor, and appearance, and shall attractively serve each food at the proper temperature.

(d) Each facility shall provide residents with menu plans on at least a weekly basis.

(e) Each facility shall establish a method to incorporate input by residents on the selection of food to be served and the scheduling of meal service.

(f) Each facility shall store food under safe and sanitary conditions.

(g) Each facility shall maintain at least a three-day supply of food to meet the requirements of the planned menus.

(h) A facility shall not store containers of poisonous compounds and cleaning supplies in the same area used for food storage, preparation, or serving.

(i) Each facility shall wash, rinse, and sanitize all tableware, kitchenware, and food preparation equipment in any of the following:

- (1) A dishwashing machine;
- (2) a three-compartment sink;

(3) three separate containers; or

(4) any combination of the above. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-432. Disaster and emergency preparedness. (a) Each home-plus facility shall provide sufficient staff to promptly take residents who require assistance to the outside of the building in an emergency.

(b) Each facility shall have a detailed written emergency management plan to manage potential emergencies and disasters, including the following:

- (1) Fire;
- (2) flood;
- (3) severe weather;
- (4) tornado;
- (5) explosion;
- (6) natural gas leak;
- (7) lack of electrical or water service;
- (8) missing residents; and
- (9) any other potential emergency situations.

(c) Each facility shall ensure disaster and emergency preparedness by performing the following:

(1) Orienting new employees and residents at the time of the employment or new residency to the facility's emergency management plan;

(2) periodically reviewing the plan with employees and residents; and

(3) every three months, conducting an emergency drill with staff and residents that includes evacuation of the building.

(d) The emergency management plan shall be available to staff, residents, and visitors. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-433. Infection control. (a) Each home-plus facility shall provide a safe, sanitary, and comfortable environment for residents.

(b) Each facility shall develop and implement policies and procedures to prevent and control the spread of infections. These policies and procedures shall include the following:

(1) Taking universal precautions to prevent the spread of blood-borne pathogens:

- (2) hand washing;
- (3) the laundering and proper handling of soiled and clean linens;
- (4) providing food service sanitation;
- (5) prohibiting employees with a communicable disease or infected skin lesions from coming

in direct contact with any resident or resident's food, if direct contact transmits the disease;

(6) providing orientation of new employees and periodic employee in-service education on the control of infections in a health care setting;

(7) tuberculosis skin testing of each new resident and employee, as soon as residency or employment begins, unless the resident or employee can provide documentation of a previous significant reaction. Each facility shall follow the centers for disease control recommendations for "prevention and control of tuberculosis in facilities providing long-term care to the elderly," as published in morbidity and mortality weekly report, July 13, 1990, and hereby adopted by reference; and

(8) transferring a resident with an infectious disease to an appropriate health care facility if the home-plus facility is unable to provide the isolation precautions required to treat the infectious disease. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-434. Resident records. (a) Each home-plus facility shall maintain a record for each resident in accordance with accepted professional standards and practices.

(b) Each facility shall maintain each resident's records for at least five years after the death or discharge of the resident.

(c) In the case of a minor, the facility shall maintain the resident's records for five years after the resident reaches 18 years of age.

(d) Each facility shall keep confidential all information in the resident's records, regardless of form or storage methods of the records, except when release is required by any of the following:

- (1) Transfer to another health care facility;
- (2) law;
- (3) third party payment contract;
- (4) the resident or the resident's legal representative; or

(5) in the case of a deceased resident, the immediate heirs of the resident.

(e) Each facility shall safeguard resident record information against loss, destruction, fire, theft, or unauthorized use.

(f) The resident record shall contain at least the following information:

- (1) The resident's name;
- (2) the dates of admission and discharge;
- (3) the admission agreement and any amendments;
- (4) the functional capacity screens;

(5) the negotiated service agreement and any amendments;

(6) the name, address, and telephone number of the physician and dentist to be notified in an emergency;

(7) the name, address, and telephone number of the legal representative or individual of the resident's choice to be notified in the event of a significant change in condition;

(8) the physician's order, if the facility is managing the resident's medications and medical treatments;

(9) the records of drugs, biologicals, and treatments administered; and

(10) the documentation of all incidents, symptoms, and other indications of illness or injury, including the date, the time of occurrence, the action taken, and the results of action. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-435. Staff qualifications. (a) Each home-plus facility shall provide sufficient numbers of qualified personnel to ensure that residents receive the services and care specified in the negotiated service agreement.

(b) Employee records shall contain evidence of licensure, registration, or certification of full-time, part-time, and consultant staff.

(c) A health screening shall be performed on each employee no later than seven days after employment. A copy of this health screening shall be maintained in each employee's file.

(d) Tuberculosis skin testing of employees shall be performed in accordance with the centers for disease control recommendations in "prevention and control of tuberculosis in facilities providing long-term care to the elderly," as published in morbidity and mortality weekly report, July 13, 1990, and hereby adopted by reference. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-436. Medication management in home-plus facilities. (a) Self-administration of medications.

(1) Each resident may manage and self-administer the individual's own medications if an assessment by a licensed nurse or physician has determined that the resident can perform this function safely and accurately.

(2) The assessment shall include an evaluation of the resident's physical, cognitive, and func-

tional ability to manage that individual's own medications.

(3) The assessment shall be documented on the resident's clinical record.

(4) Each resident who self-administers medications may select medications to be administered by a licensed nurse employed by the facility, a home health agency, or hospice, or by a medication aide employed by the facility. The negotiated service agreement shall reflect this service and identify the licensed nurse responsible for management of the selected medications.

(5) Medication reminding may be performed by staff if the medications are selected by the resident. Medication reminding shall consist of the following:

(A) An inquiry as to whether the medication was taken; and

(B) verbal prompting to take medications.

(b) Each resident may self-administer medications with the use of prefilled medication reminder boxes or prefilled syringes, if an assessment performed by a licensed nurse has determined that the resident can safely and accurately administer the preselected medications using medication reminder boxes or prefilled syringes without further staff assistance. The licensed nurse may be employed by the facility, a home health agency, a hospice, or the resident.

(1) The assessment shall include an evaluation of the resident's physical, cognitive, and functional ability to safely and accurately administer the medications using medication reminder boxes or prefilled syringes.

(2) An assessment shall be performed either when the resident is admitted or before the resident begins to self-administer medications with assistance. An assessment shall also be performed following a significant change in condition and at least annually. Each assessment shall be maintained in the resident's clinical record.

(3) The licensed nurse or pharmacist who pre-fills the resident's medication boxes or syringes shall ensure that all drugs are selected and prepared in accordance with a physician's written order.

(4) The licensed nurse or pharmacist shall ensure that both of the following conditions are met:

(A) Medication reminder boxes are labeled with the resident's name and the date on which the box was prefilled.

(B) A label is placed on the medication box, or a medication administration record is provided to

the resident, either of which includes the name and dosage of each drug and the time the drug is to be self-administered by the resident.

(5) Each resident who self-administers with assistance may request that selected medications be managed by a licensed nurse employed by the facility, a home health agency, or a hospice, or by a medication aide employed by the facility, if the resident believes that the resident is unable to perform this function safely.

(6) A licensed nurse employed by the facility, a home health agency, a hospice, or the resident shall develop a health services plan that provides directions to unlicensed staff to report problems related to the resident's drug regimen.

(7) Medication reminding by staff shall be allowed, subject to the following conditions:

(A) Each medication is preselected for the resident by a licensed nurse, family member, or pharmacist.

(B) The medication reminding is limited to the following:

(i) Making inquiries as to whether medication was taken;

(ii) handing the appropriately labeled prefilled medication reminder box or syringe to the resident; and

(iii) opening the appropriately labeled prefilled medication reminder box if the resident is unable to open the container.

(C) Medication reminding does not include taking the medication out of the medication reminder box.

(c) Facility management of medications. When a facility is responsible for the management of a resident's medications, the facility shall ensure that all drugs are administered to each resident in accordance with a physician's written order. Each facility shall ensure that all of the following conditions are met:

(1) All drugs, except parenteral drugs, are administered by physicians, licensed nurses, or medication aides.

(2) Parenteral drugs are administered only by a physician or licensed nurse.

(3) The drugs are prepared and administered by the same person.

(4) Each resident is identified before administration of the drug.

(5) The dose administered is recorded on the resident's individual drug record by the person who administered the drug.

(d) Medications may be preselected or admin-

istered by family members or friends gratuitously pursuant to K.S.A. 65-1124(a), and amendments thereto.

(e) Ordering and labeling.

(1) All drugs and biologicals administered by the facility or preselected for residents by a licensed nurse shall be ordered pursuant to a written order issued by a physician.

(2) The dispensing pharmacist shall label each prescription container, pursuant to K.A.R. 68-7-14.

(3) Over-the-counter drugs. Each facility shall ensure that each over-the-counter drug delivered to the facility is in the original, unbroken manufacturer's package. A pharmacist or licensed nurse shall place the full name of the resident on the package. If over-the-counter drugs are removed from the original manufacturer's package, other than for administration, the pharmacist shall label the drug, as required for prescription drugs.

(4) Physicians, advanced registered nurse practitioners, and physician assistants shall give verbal orders for drugs only to a licensed nurse, pharmacist, or another physician. The licensed nurse, physician, or pharmacist shall immediately record the verbal order in the resident's clinical record. The physician shall countersign all verbal orders within seven working days after the receipt of the verbal order.

(5) Each resident who self-administers medication may request that the facility staff reorder that resident's medications from a pharmacy of the resident's choice. Staff who perform this function shall be authorized to administer medications.

(f) Storage.

(1) All drugs managed by the facility shall be stored safely, securely, and properly, following manufacturer's recommendations or those of the supplier and in accordance with federal and state laws and regulations.

(2) Each resident who self-administers medication or self-administers medication with assistance shall store the medications in a place that is accessible only to the resident and persons authorized to administer medications.

(3) Each resident may request that the facility store a medication or medications when the resident is unable to provide proper storage as recommended by the manufacturer or pharmacy provider.

(4) All drugs and biologicals managed by the facility shall be stored in a locked cabinet or locked medication cart, and only those persons au-

thorized to administer medications shall have access to the keys to the cabinet or cart.

(5) Each facility shall ensure that there are records maintained of receipt and disposition of all controlled substances managed by the facility so that there can be an accurate reconciliation.

(g) Records. Each facility shall ensure that the following items are documented in the clinical records of all residents who self-administer medications with assistance or for whom the facility manages medications:

(1) Physician orders for medications;

(2) the pharmacy provider of the resident's choice;

(3) any known drug allergies;

(4) the date and time medications were selected for residents who required assistance with self-administration of medications; and

(5) the date and time medications were administered to residents.

(h) Drug regimen review.

(1) Each resident who self-administers any medication shall be offered the opportunity to have a drug review conducted by a pharmacist or licensed nurse on a monthly basis. If the resident refuses this service, the facility shall offer the service each time the resident experiences a significant change in condition or at least annually. Each facility shall document the resident's decision in the resident's clinical record.

(2) A pharmacist or licensed nurse shall conduct a drug regimen review on a monthly basis for all residents who self-administer their medications with assistance and those residents whose medications are managed by the facility.

(3) A drug regimen review shall identify any potential or current drug-related problem, including the following:

(A) Lack of clinical indication for use of any drug;

(B) subtherapeutic dose of any drug;

(C) failure of the resident to receive an ordered drug;

(D) drugs administered in excessive dosage, including duplicate therapy;

(E) adverse drug reactions;

(F) drug interactions; and

(G) lack of adequate monitoring.

(4) The facility shall report each variance identified in the drug regimen review to the resident's physician.

(5) The facility shall maintain documentation of any drug regimen review performed in the res-

ident's record. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-437. Construction; general requirements. (a) Each home-plus facility shall be designed, constructed, equipped, and maintained to protect the health and safety of residents, personnel, and the public.

(b) All new construction, renovation, remodeling, and changes in building use in existing buildings shall comply with building and fire codes, ordinances, and regulations enforced by city, county, and state jurisdictions, including the state fire marshal.

(c) Site location requirements. Each facility shall meet the following requirements:

- (1) Be served by all-weather roads and streets;
- (2) be free from noxious or hazardous smoke or fumes;
- (3) be located at least 4,000 feet from concentrated livestock operations, including feedlots and shipping and holding pens;
- (4) be free of flooding for a 100-year period; and
- (5) be sufficient in area and configuration to accommodate the building or buildings, drives, parking, sidewalks, and outdoor recreation area.

(d) General building exterior.

(1) Each exterior pathway or access to the facility's common use areas and entrance or exit ways shall meet the following requirements:

- (A) Be made of hard, smooth material;
- (B) be barrier free; and
- (C) be maintained in good repair.

(2) Outdoor recreation areas shall be provided and available to residents.

(3) The exterior of the building and the grounds shall be maintained in good repair and in a clean, safe, and orderly manner.

(4) Each facility house address number shall be posted on the exterior of the facility using at least three-inch-high numbers. Address numbers shall be posted on any mailbox located away from the facility.

(e) General building interior.

(1) Resident bedrooms.

(A) Each resident shall be provided a separate bed with the following:

- (i) A clean, comfortable mattress; and
- (ii) bedding appropriate to the weather.

(B) Each facility shall provide visual privacy for each resident in a multi-bed room.

(C) A space of at least three feet shall be provided between beds in a multi-bed room.

(D) Each resident shall be provided with space for the storage of personal items.

(E) There shall be at least one window to the outside.

(F) Resident bedrooms shall not be located in a basement.

(G) Bedrooms for residents who require physical assistance in transferring from a bed to a wheelchair shall be located on the first floor of the facility.

(2) Toilet facilities.

(A) There shall be at least one toilet room with a lavatory, and a shower or tub, for each five individuals living in the facility.

(B) The facility shall provide grab bars or equivalent assistive devices at each toilet, tub, or shower if required for resident safety.

(C) Showers and tubs shall have nonslip surfaces or be provided with nonslip mats for resident safety.

(3) Living, dining, and activity areas. Each facility shall provide living, dining, and activity areas that meet the following requirements:

- (A) Are well lighted;
- (B) are adequately furnished;
- (C) have sufficient space to accommodate all resident activities; and

(D) are located in an area or areas accessible to all residents.

(4) Laundry area.

(A) If the facility processes laundry, the facility shall provide a work area with a one-way flow of laundry from a soiled area to a clean area.

(B) The laundry area shall not be located in the same room where preparation and service of food occur.

(C) Each facility shall store laundry in a manner that prevents odors and the spread of disease.

(f) Sanitation and maintenance. Each facility shall provide a safe, functional, sanitary, and comfortable environment for residents, staff, and the public.

(g) Public telephone. There shall be a public telephone locally accessible to individuals with disabilities in a private area that allows a resident or another individual to conduct a private conversation.

(h) The heating, air conditioning, and ventilation systems shall maintain a year-round indoor temperature range of 70°F to 85°F in the resident use areas.

(i) Plumbing and piping systems.

(1) Backflow prevention devices or vacuum

breakers shall be installed on fixtures to which hoses or tubing can be attached.

(2) Water distribution systems shall be arranged to provide hot water at hot water outlets at all times. The temperature of hot water shall range between 98°F and 120°F at showers, tubs, and lavatories accessible to residents.

(j) Each facility shall ensure that residents who desire to receive mail without staff intervention may do so. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

Article 40.—EMERGENCY MEDICAL SERVICES

CERTIFICATION OF AMBULANCE ATTENDANTS

28-40-1 to 28-40-6. (Authorized by K.S.A. 65-4320; effective, E-77-34, July 8, 1976; effective Feb. 15, 1977; revoked, E-81-33, Oct. 22, 1980; revoked May 1, 1981.)

28-40-7 to 28-40-50. Reserved.

AMBULANCE LICENSURE

28-40-51 to 28-40-58. (Authorized by K.S.A. 65-4320; effective, E-77-34, July 8, 1976; effective Feb. 15, 1977; revoked, E-81-33, Oct. 22, 1980; revoked May 1, 1981.)

28-40-59 and 28-40-60. Reserved.

28-40-61 and 28-40-62. (Authorized by K.S.A. 1979 Supp. 65-4320; implementing K.S.A. 1979 Supp. 65-4320, 65-4322; effective May 1, 1981; revoked May 1, 1985.)

28-40-63 to 28-40-65. (Authorized by K.S.A. 1979 Supp. 65-4320; implementing K.S.A. 1979 Supp. 65-4320; effective May 1, 1981; revoked May 1, 1985.)

28-40-66. (Authorized by K.S.A. 1979 Supp. 65-4320; implementing K.S.A. 1979 Supp. 65-4326; effective May 1, 1981; revoked May 1, 1985.)

28-40-67 and 28-40-68. (Authorized by K.S.A. 1979 Supp. 65-4320; implementing K.S.A. 1979 Supp. 65-4320; effective May 1, 1981; revoked May 1, 1985.)

28-40-69. (Authorized by and implementing K.S.A. 1982 Supp. 65-4318, as amended by L. 1983, ch. 286, § 6; effective May 1, 1984; revoked May 1, 1985.)

Article 41.—OIL FIELD WASTE DISPOSAL

28-41-1 to 28-41-8. (Authorized by K.S.A. 65-171d; implementing K.S.A. 65-171d; effective July 1, 1966; amended May 1, 1984; revoked May 10, 1996.)

28-41-9. (Authorized by and implementing K.S.A. 65-171d; effective Dec. 31, 1947; amended July 1, 1949; amended Sept. 1, 1950; amended July 1, 1955; amended July 1, 1958; amended July 1, 1966; amended Feb. 15, 1977; amended May 1, 1982; amended, T-84-42, Jan. 1, 1984; amended May 1, 1984; revoked May 10, 1996.)

Article 42.—CERTIFICATES OF NEED FOR HEALTH FACILITIES

28-42-1. (Authorized by K.S.A. 65-4704 and 65-4821; implementing K.S.A. 1983 Supp. 65-4805, 65-4806, 65-4808, 65-4815; effective May 1, 1979; amended, E-81-7, March 12, 1980; amended May 1, 1980; amended, E-81-34, Nov. 12, 1980; amended May 1, 1981; amended, T-84-21, Aug. 30, 1983; amended May 1, 1984; revoked May 10, 1996.)

28-42-2. Reserved.

28-42-3. (Authorized by K.S.A. 65-4806, 65-4821; effective May 1, 1979; amended, E-81-34, Nov. 12, 1980; amended May 1, 1981; revoked May 10, 1996.)

28-42-4. (Authorized by K.S.A. 1978 Supp. 65-4806; effective May 1, 1979; revoked May 10, 1996.)

28-42-5. (Authorized by K.S.A. 65-4704, 65-4821, K.S.A. 1983 Supp. 65-4806; implementing K.S.A. 65-4806; effective May 1, 1979; amended, E-81-7, March 12, 1980; amended May 1, 1980; amended, E-81-34, Nov. 12, 1980; amended May 1, 1981; amended, T-84-21, Aug. 30, 1983; amended May 1, 1984; revoked May 10, 1996.)

28-42-6. (Authorized by K.S.A. 1979 Supp. 65-4704, 65-4804, 65-4808; effective May 1, 1979; amended, E-81-7, March 12, 1980; amended May 1, 1980; revoked May 10, 1996.)

28-42-7. (Authorized by K.S.A. 1979 Supp. 65-4704, 65-4807, 65-4808; effective May 1, 1979; amended, E-81-7, March 12, 1980; amended May 1, 1980; revoked May 10, 1996.)